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TITLE 14

LOCAL GOVERNMENT

(CHAPTERS 1-53 IN VOLUME 9; CHAPTERS 54-103 IN VOLUME 10; CHAPTERS 183-295 IN VOLUME 11B; CHAPTERS 296-387 IN VOLUME 12)

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CHAPTER 114

GENERAL PROVISIONS

A.C.R.C. Notes. Acts 2005, No. 1243, § 2, provided:

"Arkansas Soil and Water Conservation Commission renamed 'Arkansas Natural Resources Commission'.

"(a)(1) "The 'Arkansas Soil and Water Conservation Commission' as it is referred to or empowered throughout the Arkansas Code, is renamed.

"(2) In its place, the 'Arkansas Natural Resources Commission' is established, succeeding to the general powers and responsibilities previously assigned to the Arkansas Soil and Water Conservation Commission.

"(3) The Executive Director of the Arkansas Soil and Water Conservation Commission is directed to identify and revise all interagency agreements, financial instruments, funds, and other necessary legal documents in order to effect this change.

"(b) Nothing in this act shall be construed as impairing the powers and authorities of the Arkansas Soil and Water Conservation Commission before the effective date of the name change."

Effective Dates. Acts 1999, No. 52, § 6: Feb. 11, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that conjunctive use of water is necessary for Arkansas' long term economic benefit; that districts must participate in any long-term solution; that several studies would be delayed and could impact development of water resource within the watershed. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

14-114-103. Watershed or basin studies and funding for costs.

(a)(1) Irrigation, drainage, watershed, regional water distribution, levee, and conservation districts may participate in watershed or basin studies within their basins to assess:

(A) The water quantity or quality issues within the basin; or

(B) The impacts, feasibility, planning, and design of any proposed project within the watershed or basin that could impact the districts' facilities and operation.

(2) The study may be conducted by one (1) or more districts, with or without the assistance of the state or federal government.

(b) A district may use any operation and maintenance funds or other funds not otherwise pledged to assist with study costs.

History. Acts 1999, No. 52, § 1; 2001, No. 1553, § 23.

14-114-104. [Repealed.]

Publisher's Notes. This section, concerning funds for study costs, was repealed by Acts 2001, No. 1553, § 23. The section was derived from Acts 1999, No. 52, § 2.

CHAPTER 116

REGIONAL WATER DISTRIBUTION DISTRICT ACT

SUBCHAPTER.

Subchapter 1 — General Provisions

SECTION.

A.C.R.C. Notes. Acts 2005, No. 1243, § 2, provided:

"Arkansas Soil and Water Conservation Commission renamed 'Arkansas Natural Resources Commission'.

"(a)(1) The 'Arkansas Soil and Water Conservation Commission' as it is referred to or empowered throughout the Arkansas Code, is renamed.

"(2) In its place, the 'Arkansas Natural Resources Commission' is established, succeeding to the general powers and responsibilities previously assigned to the Arkansas Soil and Water Conservation Commission.

"(3) The Executive Director of the Arkansas Soil and Water Conservation Commission is directed to identify and revise all interagency agreements, financial instruments, funds, and other necessary legal documents in order to effect this change.

"(b) Nothing in this act shall be construed as impairing the powers and authorities of the Arkansas Soil and Water Conservation Commission before the effective date of the name change."

Effective Dates. Acts 2001, No. 618, § 4: Mar. 8, 2001. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that there is an immediate need for the operation of sewer facilities by a responsible regional public agency in certain situations, to assure the health and safety of persons and the environment. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

14-116-101. Title.

CASE NOTES

Cited: City of Maumelle v. Jeffrey Sand Co., 353 Ark. 686, 120 S.W.3d 55 (2003).

14-116-102. Purpose.

Public nonprofit regional water distribution districts may be organized under this chapter for any one (1) or more of the following purposes:

(1) Acquisition of water from wells, lakes, rivers, tributaries, or streams of or bordering this state or from existing reservoirs heretofore created by the construction of dams by or under the direction and supervision of the United States Army Corps of Engineers;

(2) Acquisition of water, water storage facilities, and the storage of the water in reservoirs created by the construction of multipurpose dams by or under the direction and supervision of the United States Army Corps of Engineers, or by the water district with federal financial or other assistance furnished by the United States Secretary of Agriculture under the provisions of the Watershed Protection and Flood Prevention Act or any other federal law;

(3) Purification, treatment, and processing of the water;

(4) Furnishing the water to persons desiring it;

(5) Assisting in the installation and operation of the water and transportation facilities of persons who are furnished water by the water district and the acquisition, supply, or installation of equipment necessary therefor;

(6) Transportation and delivery of the water to persons furnished it by the water district;

(7) In the case of a district in existence on January 1, 2001, other than a district the lands within which are subject to assessment under § 14-116-601 et seq., owning, acquiring, operating, constructing, equipping, improving, expanding, contracting, concerning, and otherwise dealing in and with regard to properties, real, personal, or mixed, tangible and intangible, for the purpose of the collecting, transporting, treating, and disposing of sewage and liquid waste, industrial, commercial, and residential; and

(8) Carrying out the functions as may be related and appropriate to the accomplishment of the purposes enumerated in this section.

History. Acts 1957, No. 114, § 3; 1963, No. 120, § 2; 1973, No. 137, § 1; A.S.A. 1947, § 21-1403; Acts 2001, No. 618, § 1.

A.C.R.C. Notes. Acts 2001, No. 618, § 3, provided: "This act shall apply to regional water distribution districts in existence on January 1, 2001, provided that it shall not apply to districts the lands within which have been subjected to an assessment or assessments of benefits under Arkansas Code §§ 14-116-601 through 14-116-611."

CASE NOTES

Authorized Uses.

A regional water district may be preformed for the purpose of planning a water project. City of Fort Smith v. River Valley Reg'l Water Dist., 344 Ark. 57, 37 S.W.3d 631 (2001).

14-116-107. Applicability of Regional Water Distribution District Act.

CASE NOTES

Municipalities.

This section does not mean that municipalities may not be contained within regional water districts; instead, it merely provides that the state and its political subdivisions do not have to seek formation of a regional water district in order to furnish water to their respective citizens. City of Fort Smith v. River Valley Reg'l Water Dist., 344 Ark. 57, 37 S.W.3d 631 (2001).

Cited: Ark. Soil & Water Conservation Comm'n v. City of Bentonville, 351 Ark. 289, 92 S.W.3d 47 (2002).

Subchapter 2 — Establishment of Water Districts

14-116-201. Authority to petition for district establishment.

(a) When there is water available for industrial, municipal, or agricultural irrigation water supply purposes from wells, lakes, rivers, tributaries, or streams of this state or bordering on this state or from reservoirs heretofore created by the construction of multipurpose dams by or under the direction and supervision of the United States Army Corps of Engineers on any of the rivers, tributaries, or streams of or bordering on this state, or when the United States Congress has enacted a law authorizing the construction of a reservoir by or under the supervision and direction of the United States Army Corps of Engineers on any of the rivers, tributaries, or streams of or bordering on this state, or when a proposed reservoir on any stream of this state is to be constructed by a water district established under this chapter with federal or other assistance furnished by the United States Secretary of Agriculture under the provisions of the Watershed Protection and Flood Prevention Act, 16 U.S.C. §§ 1001-1007, or any other federal law, then one hundred (100) or more qualified voters residing and owning lands situated within the boundaries of the water district proposed to be established under the provisions of this chapter may petition the circuit court in the county to establish a water district for the purposes set out in this section.

(b) A petition under this section shall contain a bold heading stating that a signature on the petition is a vote to create the district.

History. Acts 1957, No. 114, § 4; 1963, No. 120, § 3; 1973, No. 137, § 2; A.S.A. 1947, § 21-1404; Acts 1995, No. 838, § 2; 2019, No. 1025, § 8.

Amendments. The 2019 amendment added the (a) designation; inserted "16 U.S.C. §§ 1001-1007" in (a); and added (b).

14-116-202. Contents of petition.

CASE NOTES

Sufficiency of Petition.

A petition was sufficient where it (1) reflected that the proposed water district would be all of a county and a city, (2) a map of the territory was attached to the petition, (3) the petition contained a brief description of the proposed water source, and (4) the petition further contained a brief statement showing the necessity for forming the district, the proposed name of the district, and the proposed location of the district's office. City of Fort Smith v. River Valley Reg'l Water Dist., 344 Ark. 57, 37 S.W.3d 631 (2001).

14-116-204. Commission review of petition.

CASE NOTES

Cited: City of Fort Smith v. River Valley Reg'l Water Dist., 344 Ark. 57, 37 S.W.3d 631 (2001).

14-116-205. Notice of hearing.

(a) Between thirty (30) and sixty (60) days after the report of the Arkansas Natural Resources Commission has been filed in the office of the circuit clerk, the petition shall be presented to the judge of the circuit court of the county, either in term or vacation, and the court shall thereupon enter its order:

(1) Setting a hearing upon the petition for a day certain; and

(2) Directing the clerk of the court to give notice of the hearing by publication for two (2) consecutive weeks in some newspaper or newspapers having a general circulation in each of the counties containing lands embraced within the boundaries of the proposed water district and, if available, on the website of the county or of the Secretary of State.

(b) The notice shall contain:

(1) A concise statement describing the purpose of the hearing;

(2) A description of the territory to be embraced within the water district;

(3) A concise statement of the action of the commission;

(4) A warning to all persons residing or owning property within the boundaries of the proposed water district to appear upon the date and at the time and place of the hearing to show cause, if any exists, why the petition should not be granted.

History. Acts 1957, No. 114, § 5; 1973, No. 137, § 3; A.S.A. 1947, § 21-1405; Acts 2019, No. 1025, § 9.

Amendments. The 2019 amendment, in the introductory language of (a), substituted "Between thirty (30) and sixty (60) days" for "Within thirty (30) days" and substituted "report of the Arkansas Natural Resources Commission" for "report of the commission"; and added "and, if avail-

able, on the website of the county or of the Secretary of State" in (a)(2).

14-116-206. Hearing — Appeal.

CASE NOTES

In General.

This section does not require that a court specifically rule that a regional water district has the power to acquire specific land for a specific project and that the district has the power to contract with the United States government. City of Fort Smith v. River Valley Reg'l Water Dist., 344 Ark. 57, 37 S.W.3d 631 (2001).

Subchapter 3 — Board of Directors

Effective Dates. Acts 2009, No. 1480, § 117: Apr. 10, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act makes various revisions to Arkansas election laws that are designed to improve the administration of elections and special elections and that these revisions should be implemented as soon as possible so that the citizens of this state may benefit from improved election procedures. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2019, No. 597, § 10: July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that there is a need for uniform candidate filing and petition circulation periods; that if there is a delay in implementation, some candidate filing and petition circulation periods may be disrupted by the change in the middle of a candidate's campaign; and that this act should become effective before candidates begin circulating petitions and filing for candidacy in the 2019 November annual school elections. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

14-116-301. Members generally — Original appointments.

(a) If a water district is composed of all or a portion of four (4) or more counties:

(1) The board of directors shall be composed of three (3) qualified electors who are residents of the district from each of the counties in which lands are embraced in the district. Furthermore, if the circuit court creating a water distribution district finds that a larger number of board members than that provided for above is necessary to afford adequate representation for the various parts of the district, the court

may establish a board consisting of a greater number of members than that provided for above. In this case the representation on the board of directors shall be apportioned to the various parts of the district in a manner the circuit court deems just and equitable; and

(2) When the circuit court has established the district, it shall within a reasonable time thereafter appoint the three (3) or more directors of the water district. Upon the expiration of the terms of the directors so appointed, subsequent directors shall be elected as set out in this subchapter by the qualified electors residing in the water district in each county in which there is area included in the district.

(b) If a water district is composed of all or a portion of less than four (4) counties:

(1) The board of directors shall be composed of three (3) qualified voters residing in the service area of the customers of the district, which is the area within the boundaries of the water district to which the customers of the district currently provide retail water or other services that they have purchased from the district. However, if the district embraces lands in more than one (1) county but less than four (4) counties, then the board of directors shall be composed of three (3) qualified electors who are residents of the service area of the customers of the district from each of the counties in which lands are embraced in the district. Furthermore, if the court creating a water distribution district finds that a larger number of board members than that provided for above is necessary to afford adequate representation for the various parts of the district, the court may establish a board consisting of a greater number of members than that provided for above. In this case the representation on the board of directors shall be apportioned to the various parts of the district in a manner the court deems just and equitable, and each director shall be a qualified voter residing in the part of the service area of the customers of the district that he or she represents; and

(2) When the circuit court has established the district, it shall appoint, within a reasonable time thereafter, the three (3) or more directors of the water district. Upon the expiration of the terms of the directors so appointed, subsequent directors shall be elected as set out in this subchapter by the qualified electors, who shall consist of those electors residing in all or part of any precinct in the service area of the customers of the water district in each county in which lands are embraced in the district or, if the district has been apportioned by the court, by qualified voters, who shall consist of those voters residing in all or part of any precinct in the service area of the customers of the district that the director will represent.

(c) In a water district that does not provide potable water, an individual is eligible to be a director if the individual is a property owner in the water district.

History. Acts 1957, No. 114, § 7; 1970 (1st Ex. Sess.), No. 21, § 1; A.S.A. 1947, § 21-1407; Acts 2007, No. 863, § 1; 2009, No. 370, § 1; 2019, No. 450, § 1.

Amendments. The 2019 amendment added (c).

14-116-302. Members — Terms.

(a)(1) Each director on the board of directors of a water district shall serve a term of six (6) years and until his or her successor is duly elected and qualified, except that one (1) of the original directors from each county shall serve a term of not more than two (2) years, one (1) for a term of not more than four (4) years, and one (1) for a term of not more than six (6) years as determined by the circuit court.

(2)(A) The circuit court may find at any time that it is necessary or desirable that the membership of the board of directors of the water district increase or, in the case of a water district that includes less than the entirety of a county, decrease to a number other than three (3) for each county represented in the water district in order to provide proper representation to the various parts of the water district.

(B) In modifying the number of directors under subdivision (a)(2)(A) of this section, the circuit court shall adjust the terms of office as necessary to properly provide for staggered terms for the directors representing each part of the water district.

(b) The term of office of the directors shall expire on December 31 of the last year of the term of each director.

History. Acts 1957, No. 114, § 7; 1970 (1st Ex. Sess.), No. 21, § 1; A.S.A. 1947, § 21-1407; Acts 2007, No. 863, § 2; 2019, No. 450, § 2.

Amendments. The 2019 amendment rewrote (a); and deleted "the year that constitutes" following "December 31 of" in (b).

14-116-303. Members — Nomination and election.

(a)(1)(A) If a water district is composed of all or a portion of four (4) or more counties, then nominations for directors shall be upon a petition signed by at least fifty (50) qualified electors residing in the area of the district from which the director is to be elected, to be circulated for no longer than ninety (90) days.

(B) The petition under subdivision (a)(1)(A) of this section shall be filed with the county clerk during a one-week period ending at 12:00 noon ninety (90) days before the general election.

(2)(A) If a water district is composed of all or a portion of less than four (4) counties, then nominations for directors shall be upon a petition signed by at least fifty (50) qualified electors, who shall consist of those electors residing in all or part of any precinct in the service area of the customers of the district from which the director is to be elected.

(B) The petition under subdivision (a)(2)(A) of this section shall be circulated for no longer than ninety (90) days and filed with the county clerk during a one-week period ending at 12:00 noon ninety (90) days before the general election.

(3) A water district shall file a service area map with the county clerk no later than January 31 before the general election.

(b) Election of the directors shall be held as a part of the general election and under the laws governing it.

(c) Any director shall be qualified to succeed himself or herself.

History. Acts 1957, No. 114, § 7; 1970 (1st Ex. Sess.), No. 21, § 1; A.S.A. 1947, § 21-1407; Acts 2007, No. 863, § 3; 2009, No. 370, § 2; 2009, No. 1480, § 82; 2019, No. 597, § 9.

Amendments. The 2019 amendment rewrote (a)(1) and (a)(2).

14-116-308. Meetings.

(a) Regular meetings of the board of directors shall be held quarterly in the office of the district on the day selected by the board.

(b) Notice of the meeting shall be mailed to each director at least five (5) days prior to the date of the meeting. Special meetings may be held at any time upon waiver of notice of the meeting by all directors or may be called by the president or by any two (2) directors at any time, provided that notice in writing signed by the persons calling any special meeting is mailed to each director at least five (5) days prior to the time fixed for a special meeting.

(c)(1) A majority of the directors shall constitute a quorum for the transaction of business.

(2) In the absence of any of the duly elected officers of the district, a quorum at any meeting may select a director to act as officer pro tem.

(d)(1) Each meeting of the board, whether regular or special, shall be open to the public.

(2) However, the board may conduct meetings in executive session as permitted under § 25-19-106.

History. Acts 1957, No. 114, § 7; 1970 (1st Ex. Sess.), No. 21, § 1; A.S.A. 1947, § 21-1407; Acts 2003, No. 1210, § 1.

Subchapter 4 — Operation of Water Districts

SECTION.
14-116-402. District powers.

Effective Dates. Acts 2001, No. 618, § 4: Mar. 8, 2001. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that there is an immediate need for the operation of sewer facilities by a responsible regional public agency in certain situations, to assure the health and safety of persons and the environment. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it

shall become effective on the date the last house overrides the veto."

14-116-402. District powers.

(a) Each water district shall have power to:

(1) Sue and be sued and complain and defend in the district's name;

(2) Adopt a seal which may be altered at pleasure and to use it, or a facsimile thereof, as required by law;

(3) Acquire absolute title to and use for any purpose and at any place water stored in any reservoir or other water source created by the construction of a multipurpose dam by or under the direction and supervision of the United States Army Corps of Engineers, or by the water district with federal financial or other assistance furnished by the United States Secretary of Agriculture under the provisions of the Watershed Protection and Flood Prevention Act, as amended, or with financing provided by any federal, state, or other source;

(4) Acquire water storage and withdrawal rights in any reservoir or other water source created by the construction of a multipurpose dam by or under the direction and supervision of the United States Army Corps of Engineers, or by the water district with federal financial or other assistance furnished by the United States Secretary of Agriculture under the provisions of the Watershed Protection and Flood Prevention Act, as amended, or with financing provided by any federal, state, or other sources;

(5) Transport, distribute, sell, furnish, and dispose of the water from whatever source derived to any person at any place;

(6) In the case of a district in existence on January 1, 2001, other than districts the lands in which are subject to assessment under § 14-116-601 et seq., collect, transport, treat, and dispose of sewage and liquid waste and own, acquire, operate, construct, equip, improve, expand, contract concerning, or otherwise deal in and with regard to facilities for any or all of the purposes;

(7) Construct, erect, purchase, lease as lessee and in any manner acquire, own, hold, maintain, operate, sell, dispose of, lease as lessor, exchange, and mortgage real property, personal property, easements, interests in real property, plants, buildings, works, machinery, supplies, equipment, apparatus, facilities, property rights, and transportation and distribution lines, facilities, equipment, or systems necessary, convenient, or useful;

(8)(A) Regulate, define, and control the rate and location of any withdrawal or transfer of water which is owned, acquired, or developed by the water district in natural or manmade channels.

(B) However, riparian owners of natural watercourses are not obligated to pay for their historical riparian use from such natural water courses;

(9)(A) Authorize persons to enter for any purpose water which has been or is being transported or is held by the water district, but only

if the water district has acquired absolute title to land under the water or has obtained permission of the owner of the land under the water.

(B) However, this subdivision (a)(9) does not limit a district's authority to enter on lands for inspection or other purposes consistent with the purposes of this chapter;

(10) Assist its customers in the preparation of their premises for the use of water furnished by the water district and install upon the premises fixtures, machinery, supplies, apparatus, and equipment of any and all kinds and character, and in connection therewith, and for that purpose, to purchase, acquire, lease, sell, distribute, install, and repair fixtures, machinery, supplies, apparatus, and equipment of any and all kinds and character and to receive, acquire, endorse, pledge, hypothecate, and dispose of notes, bonds, and other evidences of indebtedness;

(11) Acquire, own, hold, use, exercise, and to the extent permitted by law, to sell, mortgage, pledge, hypothecate, and in any manner dispose of franchises, rights, privileges, licenses, rights-of-way, and easements necessary, useful, or appropriate;

(12) Purchase, receive, lease as lessee, or in any other manner acquire, own, hold, maintain, sell, exchange, and use any and all real and personal property, or any interest therein;

(13)(A) Borrow money and otherwise contract indebtedness, to issue its obligations therefor, and to secure the payment thereof by mortgage, pledge, or deed of trust of all or any part of its property, assets, franchises, rights, privileges, licenses, rights-of-way, easements, revenues, or income.

(B) The obligations may be in the form of negotiable bonds but may be registered as public obligations under the Registered Public Obligations Act of Arkansas, § 19-9-401 et seq., may be issued in one (1) or more series, may bear such date or dates, may mature at such times, not exceeding forty (40) years from their respective dates, may bear interest at rate or rates, may be in such form, may be executed in such manner, may be payable in such medium of payment, may be payable at such place or places, within or without the State of Arkansas, may be subject to such terms of redemption, and may contain such terms, covenants, and conditions as the resolution of the board authorizing the bonds may provide.

(C) The resolution of the board authorizing the bonds may provide for the execution by the water district of a trust indenture with a bank or trust company, within or without the State of Arkansas, which defines the rights of the holders and registered owners of the bonds and provides for the appointment of a trustee for the holders and registered owners of the bonds.

(D) The trust indenture may control the priority between successive issues and may contain such other terms, covenants, and conditions that are deemed desirable including, without limitation, those pertaining to the custody and application of the proceeds of the

bonds, the collection and disposition of revenues, the maintenance and investment of various funds and reserves, the nature and extent of the security, the rights and duties of the water district and the trustee for the holders or registered owners of the bonds, and the rights of the holders or registered owners of the bonds.

(E) The bonds may be sold at such price, including sale at a discount, and in such manner as the board may determine.

(F) All bonds, whether previously or subsequently issued pursuant to the provisions of this section, shall be exempt from all state, county, and municipal taxes;

(14) Sell and convey, mortgage, pledge, lease as lessor, and otherwise dispose of all or any part of its property, assets, franchises, rights, privileges, licenses, rights-of-way, and easements;

(15)(A) In connection with the acquisition, construction, improvement, operation, or maintenance of its transportation and distribution lines, systems, equipment, facilities, or apparatus, use the bed of any stream without adversely affecting existing riparian rights, any highway or any right-of-way, easement, or other similar property rights, or any tax-forfeited land owned or held by the State of Arkansas or any political subdivision.

(B) However, this subdivision (a)(15) does not entitle riparian users to receive water owned, acquired, or developed by the water district without paying the district's water user charges;

(16)(A) Have and exercise the right of eminent domain for the purpose of acquiring rights-of-way and other properties necessary in the construction or operation of its property and business in the manner now provided by the condemnation laws of this state for acquiring private property for public use.

(B) However, the power under subdivision (a)(16)(A) of this section shall not be used by an irrigation water district for the acquisition or construction of private on-farm irrigation reservoirs or natural watercourses, and any surplus property obtained by an irrigation water district under this power shall be first offered to the person or persons owning the remaining property from which it was taken at the price paid as eminent domain damages before it may be sold to others;

(17) Accept gifts or grants of money, services, franchises, rights, privileges, licenses, rights-of-way, easements, or other property, real or personal;

(18) Make any and all contracts necessary or convenient for the exercise of the powers granted in this chapter;

(19)(A) Fix, regulate, and collect rates, fees, rents, or other charges for water and any other facilities, supplies, equipment, or services furnished by the water district.

(B) Rates shall be just, reasonable, and nondiscriminatory.

(C)(i) If any district distributes water to consumers outside the district, the rates, fees, rents, and other charges for water and other facilities, supplies, equipment, or services furnished to consumers outside the district shall be calculated to pay the cost of such distribution outside the district.

(ii) No part of the cost of distributing water or providing other services outside the district shall be borne by the members of the district, and there shall be no increase in the cost to members in the district as a result of furnishing water to consumers outside the district;

(20) Conduct its affairs within and without this state;

(21) Elect, appoint, or employ officers, agents, and employees of the water district and define their duties and fix their compensation;

(22) Do and perform all acts and things and have and exercise any and all powers as may be necessary, convenient, or appropriate to effectuate the purposes for which the water district is organized;

(23) Accept appropriations from the state upon such terms and conditions as may be imposed by law or rule to be used in the furtherance of the purposes for which the water district was created; and

(24) With notice, enter upon any land within or outside the water district for inspection purposes or other purposes as are necessary, convenient, and not inconsistent with the purposes of this chapter.

(b) Notwithstanding the powers conferred by this section, a water district shall comply with all laws of the State of Arkansas regarding the acquisition, storage, transportation, distribution, treatment, or disposal of water, including, without limitation, laws related to minimum stream flow, nonriparian water use, groundwater use, Arkansas Water Plan compliance, and public water supply.

(c)(1)(A) Notwithstanding any other provisions of this chapter, no irrigation district shall have the power to acquire title to or use any water stored in any reservoir created by a dam constructed before July 1, 1995, or to acquire water storage or withdrawal rights in any such reservoir.

(B) Subdivision (c)(1)(A) of this section shall not apply to United States Army Corps of Engineers projects whose main purpose is navigation.

(2) Irrigation districts may obtain water from wells, from excess surface water as defined in § 15-22-304(b), and from reservoirs constructed after July 1, 1995.

History. Acts 1957, No. 114, § 8; 1963, No. 120, § 5; 1969, No. 98, § 1; 1970 (1st Ex. Sess.), No. 21, § 2; 1973, No. 137, § 5; 1977, No. 194, § 1; 1979, No. 721, § 1; 1981, No. 425, § 33; A.S.A. 1947, § 21-1408; Acts 1989, No. 618, § 1; 1989, No. 705, § 1; 1995, No. 838, § 5; 1997, No. 907, § 2; 2001, No. 618, § 2; 2019, No. 315, § 999; 2019, No. 383, § 14.

A.C.R.C. Notes. Acts 2001, No. 618, § 3, provided: "This act shall apply to regional water distribution districts in existence on January 1, 2001, provided that it shall not apply to districts the lands within which have been subjected to an assessment or assessments of benefits under Arkansas Code §§ 14-116-601 through 14-116-611."

Amendments. The 2019 amendment by No. 315 substituted "rule" for "regulation" in (a)(17) [now (a)(23)].

The 2019 amendment by No. 383, redesignated (a)(3)(A) as (a)(3) and redesignated the remaining subdivisions accordingly; substituted "However" for "Provided, that" in (a)(8)(B); substituted "However, this subdivision (a)(9) does not" for "Provided this provision shall not" in (a)(9)(B); substituted "subdivision (a)(15)" for "provision" in (a)(15)(B); substituted

"the power under subdivision (a)(16)(A) of this section" for "this power" in (a)(16)(B); and added the (a)(19)(C)(i) and (a)(19)(C)(ii) designations.

CASE NOTES

Cited: Ark. Soil & Water Conservation Comm'n v. City of Bentonville, 351 Ark. 289, 92 S.W.3d 47 (2002).

Subchapter 5 — Improvement of Water Districts

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

14-116-501. Proposed improvement plan for assessment-based water district projects.

(a)(1) Upon the securing of a petition described in subsection (b) of this section, a water district may develop an improvement project plan for any purpose contained in § 14-116-102 that would benefit the lands within the district.

(2) All such improvement plans for improvement project areas shall be appropriately identified by a number or a name selected by the district.

(3) The district may employ an independent engineer or seek the assistance of federal or state agencies in developing the plan.

(4) The plan must include a preliminary survey and a report and should include the following as a minimum:

(A)(i) The territory which will be benefited by the proposed improvement.

(ii) The territory need not consist of contiguous parcels of land;

(B) The general character of the improvements;

(C) An estimate, in reasonable detail, of the expenses involved;

(D) The proposed works of improvement and their proposed locations as can be estimated;

(E) The general nature, purposes, utility, and need of the proposed improvements and their feasibility;

(F) An estimate, to the extent it is known, of the method of financing for works of improvement;

(G) The amount, if any, proposed to be assessed generally against the benefited lands;

(H) Whether, and if so, to what extent, any lands, lakes, or natural watercourses, rivers, tributaries, or streams within the project improvement area are likely to be damaged by or as a result of the acquisition or construction of improvements constituting part of the plan of improvement; and

(I) The plan for compensating landowners for damages, if any.

(b) Upon the securing of a petition by a majority of the owners of the benefited lands and the owners of a majority in value of the benefited lands, as shown by the last assessment of real property within a proposed improvement project area within the water district, the district shall update and complete a final improvement plan which shall contain a final survey and report.

(c) The petition shall describe generally the proposed improvement plan as contained in the preliminary survey and the report.

(d)(1) Upon completion of the final improvement plan for an improvement project area, a copy of the final survey and report shall be submitted to the Arkansas Natural Resources Commission for its approval and to other appropriate federal and state agencies for comment.

(2)(A) The Arkansas Natural Resources Commission shall solicit written comment from appropriate federal and state agencies on the items described in the final survey and report, including, but not limited to, the United States Army Corps of Engineers, the United States Fish and Wildlife Service, the Arkansas State Game and Fish Commission, the Division of Arkansas Heritage, and the Division of Environmental Quality.

(B) Upon receipt of comments from such agencies, the Arkansas Natural Resources Commission shall make such comments available to the public and shall solicit comments from the public, giving notice by publication in a newspaper published and having a general circulation in the water district, once a week for two (2) weeks, of the Arkansas Natural Resources Commission's intent to hold a hearing, to be held not less than twenty (20) days after first publication of such notice, at which hearing comments from the public will be heard.

(C) The Arkansas Natural Resources Commission shall duly consider all comments received from such agencies and the general public, if any, and shall thereafter approve, modify, or disapprove such final report and survey and notify the district's board of directors of its action in the matter.

(e) If the Arkansas Natural Resources Commission approves the report, or approves the report with modifications, and after the board reviews comments, the board of directors of a regional water distribution district may adopt the final improvement plan, with any necessary amendments or revisions, or both, to the final survey and report.

History. Acts 1995, No. 838, § 7; 1997, No. 907, § 3; 1999, No. 1164, § 124; 2019, No. 910, § 3034.

Amendments. The 2019 amendment, in (d)(2)(A), substituted "Division of Arkansas Heritage" for "Department of Arkansas Heritage" and "Division of Environmental Quality" for "Arkansas Department of Environmental Quality".

14-116-502. Court approval of project improvement plan — Appointment of assessor.

(a) The board of directors of the regional water distribution district shall by petition request court approval of the improvement plan. As part of its petition, the board of directors of a regional water distribution district shall submit a copy of the final survey and report along with such additional information or maps necessary so that the court may understand there from the purpose, utility, feasibility, and need for the improvement plan.

(b) Upon the filing of the petition by the board of directors of a regional water distribution district, the court clerk shall give notice thereof by certified registered letter to each landowner, at the address contained in the records of the county tax collector, owning property within the proposed improvement project area and by publication for two (2) weeks in a newspaper published and having a general circulation in the water district calling upon all persons owning property within the proposed improvement project area, which shall be described in the notice, to appear at a hearing before the court, on some day to be fixed by the court, to show cause in favor of or against the property improvement plan for the proposed improvement project area.

(c)(1) Based upon a review of the petition and attachments, the court, if it determines that the improvement plan is in the best interest of the owners of land within the proposed improvement project area, shall authorize the district to employ an assessor.

(2) If the court determines that the improvement plan is not in the best interest of the owners of land within the proposed project area, it shall deny the petition.

(d)(1) The assessor retained by the district shall take the oath of office as required by Arkansas Constitution, Article 19, § 20, and shall also swear that he or she will well and truly complete his or her duties of assessor.

(2) The district may from time to time change assessors, but the assessor selected must be approved by the court.

(e) The assessor shall review the petitions of the landowners to determine if at least a majority of the owners of the benefited lands and the owners of a majority in value of the benefited lands, as shown by the

last assessment of real property within a proposed improvement project area, have signed said petitions.

(f) Upon certification by the assessor that the requirements of subsection (e) of this section have been met, the court shall enter an order approving the improvement plan and establishing the project improvement area.

(g) The court's findings shall have the force and effect of a judgment, from which an appeal may be taken within thirty (30) days, either by any such owner of land or by the board; but, if no appeal is taken within that time, the order shall be deemed to be conclusive and binding upon all the land within the boundaries of the improvement project area, and upon the landowners.

History. Acts 1995, No. 838, § 7.
Publisher's Notes. This section is being set out to correct the board name in (a) and (b).

14-116-504. Alteration of plans.

(a)(1) The board of directors of the regional water distribution district may, at any time after the court has approved the improvement plan, make alterations in the plan and its works of improvement, provided such changes do not change the benefits of the improvement plan.

(2) Any such change in the improvement plan shall be filed with the court clerk.

(b) If alterations in the improvement plan would change the court-approved assessment of benefits and damages, the changed assessment must be submitted to the court for consideration according to the procedures established in this chapter; except that only owners of lands whose assessments are changed may object.

History. Acts 1995, No. 838, § 7.
Publisher's Notes. This section is being set out to correct the board name in (a)(1).

14-116-505. Additional works of improvement.

After the work contemplated by the original improvement plan has been completed, the board of directors of the regional water distribution district may adopt and file with the court clerk a plan for additional works of improvement for the improvement project area, and the proceedings with respect to such additional plan, including the right of appeal, shall be the same insofar as may be practicable as those required in connection with the original plan; except that the petitions of the landowners shall not be required.

History. Acts 1995, No. 838, § 7.
Publisher's Notes. This section is being set out to correct the board name.

CHAPTER 117

IRRIGATION, DRAINAGE, AND WATERSHED IMPROVEMENT DISTRICT ACT

SUBCHAPTER.
3. Board of Commissioners.
4. District Operation.

Subchapter 3 — Board of Commissioners

SECTION.
14-117-301. Members.
14-117-304. Powers and duties.

14-117-301. Members.

(a) When the circuit court has established any improvement district, the court shall appoint five (5) owners of real property within the district to act as a board of commissioners for that district, which shall be its governing body.

(b)(1) Each of these commissioners shall take the oath of office required by Arkansas Constitution, Article 19, § 20, and shall also swear that he or she will well and truly assess all benefits resulting from the improvement and all damages caused thereby.

(2) Any commissioner failing to take the oath within thirty (30) days after his or her appointment shall be deemed to have declined, and his or her place shall be filled by the court.

(c)(1) All vacancies on the board shall be filled by the court.

(2) However, if the owners of a majority in assessed value of the real property in the district shall petition for the appointment of a particular person or persons as commissioner or commissioners, it shall be the duty of the court to appoint the person or persons so designated.

(d) The court shall remove any member of the board on the petition of owners of a majority in assessed value of the real property in the district.

(e) The commissioners provided for in this section shall receive as compensation the sum of no more than fifty dollars ($50.00) each day for attending meetings of the board, together with their necessary expenses.

History. Acts 1949, No. 329, §§ 8, 9; A.S.A. 1947, §§ 21-908, 21-909; Acts 2001, No. 460, § 1.

14-117-304. Powers and duties.

(a) The board of commissioners shall have and may exercise any functions, powers, authority, rights, and duties that permit the accomplishments of the purposes for which such districts may be created, including the investigation and in case a plan for improvements is

adopted, then the construction, maintenance, and operation of all necessary improvements, plants, works, and facilities; the acquisition by purchase, lease, gift, or condemnation of water rights and all other properties, lands, tenements, easements; and all other rights helpful in carrying out the purposes of the organization of the district.

(b) The board, its agents, and its employees shall have the right to enter upon any land within the district to make surveys and for other purposes.

(c) The board also may accept appropriations from the state and from the United States Government upon such terms and conditions as may be imposed by law, rule, or regulation to be used in the furtherance of the purposes for which the district was authorized.

(d) The board also may construct the necessary improvements and do any lawful act necessary to accomplish the purposes of the organization of the district.

(e) In order to protect the improvements of the district from damage, the board may make and prescribe necessary regulations. The board may make regulations to define and set the rate and location of any withdrawal of waters owned, acquired, or developed by the district and transferred by natural or man-made channels. The board may also make regulations governing the operation of the works of the district and the delivery of water owned or acquired by it to users and the performance of any of its other functions. The willful violation of these regulations shall constitute a misdemeanor under the laws of this state punishable by a fine not to exceed one thousand dollars ($1,000).

History. Acts 1949, No. 329, § 12; 1957, No. 171, § 5; 1959, No. 131, § 2; A.S.A. 1947, § 21-912; Acts 1989, No. 618, § 2; 2005, No. 1190, § 1; 2019, No. 315, § 1000.

Amendments. The 2019 amendment inserted "rule" in (c).

Subchapter 4 — District Operation

14-117-411. Payment of assessment.

(a) When assessments of benefits are made, the landowners shall have the privilege of paying the assessments in full within thirty (30) days after the assessment becomes final.

(b)(1)(A) However, all such assessments shall be made payable in installments so that not more than ten percent (10%) shall be collectible in any one (1) year against the wishes of the landowner.

(B) In the event that any landowner avails himself or herself of this indulgence, the deferred installments of the assessed benefits

shall bear interest at the rate of six percent (6%) per annum and shall be payable only in installments as levied.

(2) Installment payments of less than ten dollars ($10.00) per acre per year are not subject to the ten-percent limitation in subdivision (b)(1)(A) of this section unless a majority of the board of commissioners agrees that the ten-percent limitation should apply.

(c) If any landowner shall pay in full the assessment of benefits against his or her land as provided in this section, the land shall not be further liable by reason of the assessment or any reassessment of the land except a reassessment because of changed plans as provided in § 14-117-408. It shall then be liable only to the extent of the increase in assessment, if any, because of the greater benefit thereby received. However, in case of any such additional assessment for greater benefit, any landowner who shall have paid his or her previous assessment in full shall have the privilege of paying in full the increase in assessment in the manner provided in this section.

History. Acts 1949, No. 329, § 22; 1963, No. 110, § 4; A.S.A. 1947, § 21-922; Acts 2005, No. 1190, § 2.

14-117-413. Levy of tax — Preliminary expenses.

(a) At the same time that the assessment of benefits is filed or at any subsequent time when called upon by the board of directors, the circuit court shall enter upon its records an order, which shall have all the force of a judgment providing that there shall be assessed upon the real property of the district a tax sufficient to pay the estimated cost of the improvement, with ten percent (10%) added for unforeseen contingencies.

(b)(1) The tax is to be paid by the real property in the district in proportion to the amount of the assessment of benefits on the real property and shall be paid in annual installments not to exceed ten percent (10%) for any one (1) year, as provided in the order.

(2) The circuit court may order that any tax of less than ten dollars ($10.00) per acre per year to be paid by the real property in the improvement district in proportion to the amount of the assessment of benefits is to be paid in one (1) year.

(c) The tax so levied shall be a lien upon all the real property in the district from the time that the lien is levied by the circuit court, shall be entitled to preference over all demands, executions, encumbrances, or liens whenever created, and shall continue until the assessment, with penalty and costs that may accrue on the assessment, shall have been paid.

(d) The remedy against the assessment of taxes shall be by appeal. The appeal must be taken within twenty (20) days from the date of the order by the circuit court. On the appeal the presumption shall be in favor of the legality of the tax.

(e) Any owner of real property within the district by mandamus may by the circuit court compel compliance with the terms of this section.

(f) If the board deems it not to the advantage of the district to proceed immediately with the construction of the improvement upon the filing and confirmation of the assessment of benefits, it may report to the circuit court the rate of taxation necessary to be levied to pay the preliminary expenses of the district. Thereupon, it shall be the duty of the circuit court to make a levy of taxes upon the real property in the district sufficient to pay the preliminary expenses, with ten percent (10%) added for unforeseen contingencies. This tax shall be extended upon the tax books of the county and collected along with other taxes in the same manner as the taxes levied for construction purposes, as provided in this chapter.

History. Acts 1949, No. 329, § 23; A.S.A. 1947, § 21-923; Acts 2005, No. 1190, § 3.

14-117-420. Taxation for operation, maintenance, and service of district properties.

(a) The districts shall have authority to levy and collect a tax to secure funds to maintain, repair, and operate all plants, properties, and improvements of the district and to give and maintain proper service for the purposes of its organization.

(b)(1)(A) The board of commissioners may apply to the county court to levy an additional tax.

(B) The tax may be levied as a flat tax per acre.

(2)(A) Upon the filing of the petition with the county court, notice shall be published by the county clerk for two (2) weeks in a newspaper published in each of the counties in which the district has land.

(B) Any property owner opposing the additional levy may appear at the next regular, special, or adjourned term of the county court or adjourned day of the court and state his or her objections to the levy.

(C) An appeal from the findings of the county court may be taken by either the property owners or the board.

History. Acts 1949, No. 329, § 27; A.S.A. 1947, § 21-927; Acts 2005, No. 1019, § 1.

CHAPTER 118

IMPROVEMENT DISTRICTS FOR RIVERS

SUBCHAPTER.

2. Red River Improvement Districts.

Subchapter 2 — Red River Improvement Districts

SECTION.

14-118-203. Commission members.

A.C.R.C. Notes. Acts 2005, No. 1243, § 2, provided:

"Arkansas Soil and Water Conservation Commission renamed 'Arkansas Natural Resources Commission'.

"(a)(1) "The 'Arkansas Soil and Water Conservation Commission' as it is referred to or empowered throughout the Arkansas Code, is renamed.

"(2) In its place, the 'Arkansas Natural Resources Commission' is established, succeeding to the general powers and responsibilities previously assigned to the Arkansas Soil and Water Conservation Commission.

"(3) The Executive Director of the Arkansas Soil and Water Conservation Commission is directed to identify and revise all interagency agreements, financial instruments, funds, and other necessary legal documents in order to effect this change.

"(b) Nothing in this act shall be construed as impairing the powers and authorities of the Arkansas Soil and Water Conservation Commission before the effective date of the name change."

14-118-203. Commission members.

(a)(1) The commission shall be composed of eight (8) members, appointed by the Governor as follows: Two (2) who are residents and electors of Little River County, two (2) who are residents and electors of Hempstead County, two (2) who are residents and electors of Miller County, and two (2) who are residents and electors of Lafayette County.

(2) The Governor's appointments shall be by and with the advice and consent of the Senate.

(b) Before entering upon commission duties, each member of the commission shall take and subscribe and file in the office of the Secretary of State an oath to support the United States Constitution and the Arkansas Constitution and to faithfully perform the duties of the office upon which he or she is about to enter.

(c) For each member of the commission, the term of office shall commence on January 15 following the January 14 expiration date, and shall end on January 14 of the seventh year following the year in which the term commenced.

(d) Any vacancies arising in the membership of the commission for any reason other than expiration of the regular terms for which the members were appointed shall be filled by appointment by the Governor, and to be thereafter effective until the expiration of the regular terms, subject, however, to the confirmation of the Senate when it is next in session.

(e) Members of the commission shall receive no pay for their services, but whenever the General Assembly shall have appropriated funds to the Arkansas Water Development Fund administered by the Department of Agriculture, they may, upon proper application to the department, be reimbursed for expenses in accordance with § 25-16-901 et seq.

History. Acts 1973, No. 264, §§ 2-5; 1975 (Extended Sess., 1976), No. 1035, § 1; A.S.A. 1947, §§ 6-616, 21-1015 — 21-1018; reen. Acts 1987, No. 862, § 1; 1997, No. 250, § 88; 2021, No. 501, § 2.

Amendments. The 2021 amendment,

in (e), substituted "Department of Agriculture" for "Arkansas Soil and Water Conservation Commission" and "department" for "Arkansas Soil and Water Conservation Commission".

CHAPTER 120

DRAINAGE AND LEVEE IMPROVEMENT DISTRICTS GENERALLY

SUBCHAPTER.

Subchapter 1 — General Provisions

SECTION.

14-120-113. Delinquent levies.

(a)(1)(A) A county collector may certify all delinquent levies to a drainage or levee improvement district for collection after January 1 of each year.

(B) The county collector shall maintain a list of all certified delinquent levies of a drainage or levee improvement district.

(2)(A) A county collector shall accept payment of a delinquent levy after certification to a drainage or levee improvement district if the payor is paying:

(i) In person; and

(ii) By separate check from the payment of ad valorem taxes.

(B) The county collector may:

(i) Forward the certified delinquent levy list to the drainage or levee improvement district for collection; or

(ii)*(a)* Forward the certified delinquent levy list in the drainage or levee improvement district to the Commissioner of State Lands for delinquency procedures under § 26-37-101 et seq.

(b) The certified delinquent levy list under subdivision (a)(1)(B) of this section may only be forwarded to the Commissioner of State Lands if the parcel for which the delinquent levy is owed is also certified for nonpayment of ad valorem taxes.

(C)(i) The county collector is not required to provide a receipt for the payment of the delinquent levy.

(ii) The payor is responsible for obtaining a receipt for payment of the delinquent levy from the drainage or levee improvement district.

(b) A county collector who collects and remits delinquent levies to the drainage or levee improvement district after certification under subdivision (a)(2)(B)(i) of this section shall impose penalties against the payor on behalf of the drainage or levee improvement district under § 14-120-229.

History. Acts 2013, No. 1186, § 1.

Subchapter 2 — Agreements with United States Generally

SECTION.

Effective Dates. Acts 2009, No. 1480, § 117: Apr. 10, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act makes various revisions to Arkansas election laws that are designed to improve the administration of elections and special elections and that these revisions should be implemented as soon as possible so that the citizens of this state may benefit from improved election procedures. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

14-120-209. Date of election.

The election shall be held on a date to be fixed by the directors of the drainage and levee improvement district at a special meeting called for that purpose in accordance with § 7-11-201 et seq. However, the date of the election shall be not less than sixty (60) days nor more than one hundred eighty (180) days next succeeding the date of the first publication of the notice of the filing of the outline of the project with the district as provided in § 14-120-206(c).

History. Acts 1937, No. 67, § 23, as added by Acts 1949, No. 249, § 8; A.S.A. 1947, § 21-809.16; Acts 2005, No. 2145, § 43; 2007, No. 1049, § 64; 2009, No. 1480, § 83.

14-120-226. Tax levy by board to satisfy certain obligations.

(a) The board of directors of any levee district, drainage district, or levee and drainage district is authorized and empowered, and it is made their duty, to assess and levy annually a tax upon the increased value, or betterment, estimated to accrue, and which will accrue, to lands, town lots, blocks, railroads, and tramroads, telegraph and telephone lines, and electric power lines, and all other real property lying within the boundaries of any such district, by reason of the construction and perpetual maintenance and operation of the flood control and drainage works provided for in any projects heretofore adopted and authorized or any projects which may be hereafter adopted and authorized, for the purpose of enabling the district to comply with the provisions of any contract or agreement that it may make with the United States, the

Secretary of the Army, the Chief of Engineers of the United States Army, or any other federal agency under which it may obligate itself:

(1) To provide, without cost to the United States, all lands, easements, and rights-of-way necessary for the construction of any adopted and authorized project;

(2) To hold and save the United States free from damages due to the construction of such flood control and drainage works;

(3) To maintain and operate such flood control and drainage works, after completion, in accordance with regulations prescribed by the Secretary of the Army; and

(4) To perform any and all other requirements which may be imposed on it with respect to the construction of such flood control and drainage works and the perpetual maintenance and operation of those works.

(b) The tax to be so annually levied on the increased value, or betterment, shall not exceed five percent (5%) of the increased value, or betterment, as determined and fixed under §§ 14-120-223 and 14-120-224 not to exceed two dollars and fifty cents ($2.50) per acre on rural lands.

History. Acts 1937, No. 67, § 12, as added by Acts 1949, No. 249, § 8; A.S.A. 1947, § 21-809.5; Acts 2021, No. 267, § 1.

Amendments. The 2021 amendment, in (b), deleted "the provisions of" preceding "§§ 14-120-223" and substituted "two dollars and fifty cents ($2.50)" for "twenty-five cents (25¢)".

Subchapter 4 — Alternative Procedure for Extension, Collection, and Payment of Assessments and Taxes

SECTION.
14-120-404. Due dates of taxes.

14-120-404. Due dates of taxes.

(a) All taxes levied and assessed under § 14-120-403 are due and payable between the first business day in March and October 15 inclusive in the year levied.

(b)(1) Taxes levied and assessed under § 14-120-403 are a lien upon and bind the property upon which it is levied.

(2) The lien is entitled to preference over all demands, executions, encumbrances, or liens beginning the first Monday in January of the year in which the assessment shall be made.

(3) The lien shall continue until the taxes, together with any penalties that accumulate on the taxes, are paid.

(4) However, as between grantor and grantee, the lien shall not attach until the last date fixed by law for the county clerk to deliver the tax books to the county collector in each year.

History. Acts 1980 (1st Ex. Sess.), No. 19, § 1; A.S.A. 1947, § 21-859; Acts 2011, No. 175, § 3.

CHAPTER 121

DRAINAGE IMPROVEMENT DISTRICTS GENERALLY

SUBCHAPTER.
1. General Provisions.
3. Board of Commissioners.
4. District Operation Generally.
10. Dissolution or Abolition of Districts.
11. Drainage Districts.

Subchapter 1 — General Provisions

SECTION.
14-121-105. Obstructing or damaging drainage works — Penalty.

14-121-105. Obstructing or damaging drainage works — Penalty.

Any person who obstructs a drain or damages drainage works provided for by this act shall be guilty of a violation and fined one hundred dollars ($100). He or she shall also be liable to the district for double the cost of removing the obstruction or repairing damage.

History. Acts 1909, No. 279, § 31, p. 829; C. & M. Dig., § 3665; Pope's Dig., § 4516; A.S.A. 1947, § 21-565; Acts 2019, No. 383, § 15.

Amendments. The 2019 amendment, in the first sentence, substituted "obstructs" for "shall obstruct", substituted "damages" for "damage" and substituted "violation" for "misdemeanor"; and inserted "or she" in the second sentence.

Subchapter 3 — Board of Commissioners

SECTION.
14-121-305. Powers and duties.

14-121-305. Powers and duties.

(a) The boards of commissioners under this chapter shall have control of the construction of the improvements in their districts.

(b)(1) A board may advertise in local papers or papers published in other states for proposals for doing any work by contract.

(2) Work that exceeds fifty thousand dollars ($50,000) shall not be let without public advertisement.

(3) A board may accept or reject any proposals.

(c) A board may:

(1) Appoint all necessary agents for carrying on the work and fix their pay;

(2) Buy all necessary material and implements;

(3) Sell material or implements on hand that may not be necessary for the completion of the improvement; and

(4) Make all such contracts in the prosecution of the work as may best serve the public interest.

(d)(1) A board shall have the amount of work done by any contractor estimated, from time to time as may be desirable, by the engineer selected by the board.

(2) The board shall draw its warrants in favor of the contractor for not more than ninety percent (90%) of the amount of work so reported, reserving the remainder until it has been ascertained that the work has been completed according to contract and is free from liens.

History. Acts 1909, No. 279, §§ 13, 14, p. 829; C. & M. Dig., §§ 3621, 3622; Pope's Dig., §§ 4472, 4473; Acts 1969, No. 27, § 1; 1969, No. 152, § 3; A.S.A. 1947, §§ 21-523, 21-524; Acts 1987, No. 79, § 1; 1995, No. 343, § 1; 2001, No. 200, § 1; 2021, No. 992, § 1.

Amendments. The 2021 amendment substituted "under" for "mentioned" in (a); substituted "Work that exceeds fifty thousand dollars ($50,000) shall not" for "No work exceeding twenty thousand dollars ($20,000) shall" in (b)(2); substituted "serve" for "subserve" in (c)(4); redesignated (d) as (d)(1) and (d)(2); substituted "A board shall" for "It shall be the duty of a board to" in (d)(1); and made a stylistic change.

Subchapter 4 — District Operation Generally

14-121-427. Notice of proceedings for collection of taxes.

(a)(1) Notice of the pendency of a suit shall be given by publication weekly for two (2) weeks before judgment is entered for the sale of lands, railroads, or tramroads in some newspaper published in the county where the suits may be pending.

(2) The public notice may be in the following terms:

"Board of Commissioners, Drainage District

vs.

Delinquent Lands

All persons having or claiming an interest in any of the following described lands are hereby notified that suit is pending in the Circuit Court of .... County, Arkansas, to enforce the collection of certain drainage taxes on the subjoined list of lands, each supposed owner having been set opposite his or her or its lands, together with the amounts severally due from each, to wit:"

(b) Then shall follow a list of supposed owners, with a descriptive list of the delinquent lands, and amounts due thereon respectively as aforesaid, and the public notice may conclude in the following form:

"All persons and corporations interested in the lands are hereby notified that they are required by law to appear within four (4) weeks and make defense to the suit or the same will be taken for confessed, and final judgment will be entered directing the sale of the lands for the purpose of collecting the taxes, together with the payment of interest, penalty, and costs allowed by law.

Clerk of the Court."

History. Acts 1909, No. 279, § 23, p. 829; C. & M. Dig., § 3631; Pope's Dig., § 4482; A.S.A. 1947, § 21-546; Acts 2005, No. 2170, § 1.

14-121-430. Sale of land.

(a)(1)(A) In all cases in which notice has been properly given and in which no answer has been filed, or if filed and the cause decided for the plaintiff, the circuit court by its decree shall grant the relief as prayed for in the complaint.

(B)(i) The court shall direct the commissioner of the court to sell the lands, railroads, and tramroads described in the complaint at the courthouse door of the county in which the decree is entered, at public outcry, to the highest and best bidder for cash in hand after having first advertised the sale for one (1) week in some newspaper published in the county, if there is one.

(ii) If there is no newspaper, then that advertisement shall be published in some newspaper in an adjoining county.

(iii) The advertisement may include all the lands described in the decree.

(2) If all the lands, railroads, and tramroads are not sold on the day as advertised, the sale shall continue from day to day until completed.

(3)(A) The commissioner of the court shall convey to the purchaser by proper deeds the lands, railroads, and tramroads so sold.

(B) The title to the lands, railroads, and tramroads shall thereupon become vested in the purchaser as against all others whomsoever, saving to infants and to insane persons having no guardian or curator, the right they now have by law to appear and except to the proceedings within three (3) years after their disabilities are removed.

(b)(1) In any case in which the lands, railroads, and tramroads are offered for sale by the commissioner of the court, as provided by this act, and the sum of the tax due, together with interest, cost, and penalty, is not bid for the lands, railroads, and tramroads, the commissioner of the court shall bid the lands, railroads, and tramroads off in the name of the board of directors of the drainage district, bidding the whole amount due.

(2)(A) The commissioner of the court shall execute the deed conveying the land to the drainage board.

(B)(i) No report of sale other than the execution of the deed and its submission to the court for approval and no confirmation other than approval of the deed need be made in any such case.

(ii) A deed to the land executed by the commissioner of the court, approved by the court and recorded, shall be conclusively presumed to be in consideration of the total amount rightfully due to the district whether that amount is stated or whether it is stated correctly or incorrectly in the deed.

(3) The deeds, together with other deeds as are duly executed in conformity to the provisions of this act and recorded, shall be received as evidence in all cases showing an indefeasible title in the district unassailable in either law or equity.

History. Acts 1909, No. 279, §§ 23, 24, p. 829; C. & M. Dig., §§ 3631, 3632; Pope's Dig., §§ 4482, 4483; Acts 1953, No. 226, § 1; A.S.A. 1947, §§ 21-546, 21-547; Acts 2005, No. 2170, § 2.

14-121-432. Redemption.

CASE NOTES

Right to Redeem.

Trial court erred by granting summary judgment in a grantee's favor because her collateral attack on the foreclosure decree, which was based on her allegation that the redemption period cited in the decree was incorrect, did not render the decree void; the foreclosure decree explicitly stated that redemption of the property would be governed by this section, which grants a two-year period in which to redeem the property. Fed. Nat'l Mortg. Ass'n v. Taylor, 2015 Ark. 78, 455 S.W.3d 811 (2015).

Subchapter 10 — Dissolution or Abolition of Districts

SECTION.

Effective Dates. Acts 1999, No. 1321, § 5: Apr. 12, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that current law provides no way for drainage districts to be abolished and funds returned to landowners within the district when districts are no longer beneficial to landowners within the district. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

14-121-1010. Procedures when improvements are abandoned, no maintenance assurances are given, and all indebtedness is paid.

(a)(1) The board of commissioners of any drainage district in this state, when they may deem it inadvisable or impracticable and not for the best interests of the property owners of the district for the district to continue in operation, when all indebtedness of the district has been

fully paid and if no assurance of continued operation and maintenance has been given to the United States or the state, may file a petition in the court in which the district was organized praying the court to abolish the district.

(2)(A) In the petition the commissioners shall set out the reasons why they are of the opinion that the district should be abolished.

(B) In addition, the petition shall contain a current financial statement of the district and a plan of distribution of any money held by the district consistent with the district's prior assessment of benefits.

(b)(1) Upon the filing of the petition, the court shall direct the clerk to give notice by publication in some newspaper in the county or counties in which the property in the district lies for not less than two (2) consecutive weekly publications.

(2) The notice shall set out the purpose of the petition, the plan of distribution, and the day set for the hearing on the petition.

(c) The court shall fix a day for the hearing of the petition and shall hear the evidence on the petition.

(d)(1) If the court is of the opinion that it is in the best interests of the property owners of the district that the petition be granted, it shall by order approve the plan of distribution and, upon proper distribution of funds, abolish the district.

(2) If the court is of the opinion that it is in the best interests of the property owners that the organization of the district be continued, then it shall overrule the petition.

(e) The overruling of one (1) petition for the abandonment of a district shall not be a bar to the filing of another petition for that purpose.

History. Acts 1999, No. 1321, § 1.

Subchapter 11 — Drainage Districts

14-121-1101. Legislative determination.

It is found and declared as a matter of legislative determination that the organization and administration of those drainage districts authorized under this chapter, as amended, as separate and distinct entities and the operation and maintenance of the drainage levees and projects for which the districts were originally created places an undue burden on the districts, causes an unnecessary duplication of work, and

increases the cost of construction, operation, and maintenance of the districts and their facilities. Further, the organization and administration of those drainage districts authorized under this chapter, as amended, as separate and distinct entities and the operation and maintenance of the drainage levees and projects for which the districts were originally created can be greatly benefited by the merger of drainage districts with other similar drainage districts, levees, and drainage projects, and merger will create economies of scale to achieve a significant savings in administrative and operational costs.

History. Acts 1999, No. 329, § 1.

14-121-1102. Definitions.

As used in this subchapter:

(1) In cases where the drainage district contains lands in more than one (1) county, "county court", "county judge", and "county clerk" shall be construed to mean "circuit court", "circuit judge", and "circuit clerk", respectively, of the judicial circuit containing the majority in assessed value of the lands of the merged district; and

(2) "Drainage district" includes any drainage district organized under Acts 1909, No. 279, codified as §§ 14-121-101, 14-121-102, 14-121-104, 14-121-105, 14-121-201 — 14-121-205, 14-121-207, 14-121-301, 14-121-304, 14-121-305, 14-121-307, 14-121-310, 14-121-311, 14-121-313, 14-121-401 — 14-121-406, 14-121-408, 14-121-411, 14-121-412, 14-121-422 — 14-121-432, 14-121-440 — 14-121-442, 14-121-802 — 14-121-805, and 14-121-808 and any drainage district organized under other acts which have been reorganized under Acts 1909, No. 279, as provided for by § 14-121-207.

History. Acts 1999, No. 329, § 1.

14-121-1103. Subchapter cumulative.

This subchapter shall be construed to be cumulative to existing laws relating to drainage districts and shall not repeal any existing law unless the law is in direct conflict with this subchapter. It is the purpose of this subchapter to permit the merger by one (1) or more drainage districts of the duties, obligations, and purposes for which the districts were originally created under the provisions of this chapter and amendments thereto.

History. Acts 1999, No. 329, § 1.

14-121-1104. Authority to merge.

(a) Any drainage district may merge all its required duties, obligations, and purposes whereby it carries out drainage projects with the duties, obligations, and purposes required of any other drainage district

if it follows the terms and procedures of this subchapter in order to merge with the other drainage district.

(b) In order to effect the merger, the drainage district may:

(1) Combine into one (1) operation the organization and administration of the drainage districts and the operation and maintenance of the drainage levees and projects for which the districts were originally created;

(2) Levy and collect one (1) assessment for construction, operation, and maintenance of any and all operations and projects coming under the management and control of various districts prior to the merger and operations commenced by the district subsequent to merger;

(3) Use the funds arising from the assessments so levied for the payment of any obligation incurred in the construction, operation, or maintenance of any operation or project merged; and

(4) Cause an assessment of benefits to be made of the benefits arising from the merged construction, operation, and maintenance for which the districts were originally created and for those arising from the merged district.

History. Acts 1999, No. 329, § 1.

14-121-1105. Merger procedure.

(a) No drainage district coming within the provisions of this subchapter shall exercise any of its powers conferred by this subchapter or merge the operation and maintenance of a levee or project for which the district was originally created with those of another drainage district's operations or maintenance until:

(1) The board of directors of each merging district shall have determined by a proper resolution, adopted by two-thirds (⅔) of the members of the board of directors of the district, that the merger would be in the best interest of the district and of the landowners; and

(2) A special meeting of the landowners and bondholders of the district shall have been held at which the question of merger shall have been presented and for the purpose of hearing support for or objections to the merger.

(b) Notice of the hearing shall be given by the secretary of the district by publication of a notice for at least two (2) consecutive weekly insertions in a newspaper published and having a bona fide circulation in each county within the district. This notice shall state:

(1) The time and place at which the board of directors shall meet for the purpose of hearing support for or objections to the merger;

(2) That the meeting shall be open to the public; and

(3) That at such meeting any landowner or bondholder of the district may offer support for or objection to the action of the board in adopting the resolution.

(c)(1) At the time and place specified in the notice, the board of directors shall meet at the office of the district for the purpose of the hearing.

(2) The district shall furnish a stenographer who shall take and transcribe all the testimony introduced before the board.

(3) The board shall keep a true and perfect record of its proceedings at the meeting, which shall be filed as a public record in the office of the district.

(4) A copy of the record certified by the secretary of the district shall be competent evidence in all courts of this state.

(5) After consideration of all comments in support of or in objection to the merger, if any, the board of directors, by proper resolution duly adopted by two-thirds (⅔) of the members of the board of directors, shall declare its decision regarding the merger of the district.

(6) Any landowner or bondholder aggrieved by the decision of the board may have the findings reviewed by the circuit court of the county in which the district has its domicile.

(7) The appeal shall be perfected in thirty (30) days.

(8) The review shall be heard by the court on the evidence introduced before the board of directors at the meeting aforesaid, and no additional or different evidence shall be admissible.

(9) Appeals to the Supreme Court from the decision of the circuit court shall be perfected in thirty (30) days.

History. Acts 1999, No. 329, § 1.

14-121-1106. Board of directors for merged districts.

(a) Upon the merger's becoming effective, the new board of directors of the merged drainage district shall consist of one (1) member from each of the merging districts' boards of directors to be selected by each board and named in its resolution of merger, but in no event shall a new board of directors consist of less than three (3) members. In the event only two (2) districts have merged, the merging district with the majority of the value of real property within the merged district shall be entitled to name two (2) members to the board.

(b) Each of these members of the board shall take the oath of office required by Arkansas Constitution, Article 19, § 20, and shall also swear that he or she will not directly or indirectly be interested in any contract made by the board and that he or she will well and truly assess all benefits resulting from the improvement and all damages caused thereby.

(c) Any member failing to take the oath within thirty (30) days after his or her appointment shall be deemed to have declined, and his or her place shall be filled by the county judge.

(d) All vacancies on the board shall be filled by the county judge, but if a majority in value of the owners of real property in the merged district shall petition for the appointment of particular persons as members of the board, it shall be the duty of the county judge to appoint the persons so designated.

(e) The county judge shall remove any member of the board on the petition of a majority in value of the owners of real property in the

district. He or she may remove any member and appoint his or her successor upon proof of incompetency or neglect of duty, but the charges shall be in writing, and the charged member shall have the right to be heard in his or her defense and to appeal to the circuit court.

(f) The board of directors provided for in this subchapter shall receive as compensation the sum of twenty-five dollars ($25.00) each day for attending meetings of the board, together with their necessary expenses.

(g) Actions by the board of directors of any merged district affected by this section shall be by a majority vote of the membership of the board.

History. Acts 1999, No. 329, § 1.

14-121-1107. Powers of board of directors.

(a) In order to discharge the obligations for which the district was originally created and those which it assumed under the terms of this subchapter, the board of directors of any merged drainage district under this subchapter is authorized and empowered:

(1) To exercise any and all the powers and duties of boards of directors of drainage districts as found under § 14-121-301 et seq., including, but not limited to, the authority to:

(A) Improve or extend district boundaries;

(B) Borrow money and issue bonds;

(C) Secure federal aid for surveys of drainage projects;

(D) Cooperate with the United States on drainage projects; and

(E) Employ attorneys for the district;

(2) To carry on district operations as found under § 14-121-401 et seq., including, but not limited to:

(A) Formulating plans for improvements;

(B) Making assessments of benefits and damages within the district;

(C) Reassessing benefits;

(D) Taking appeals;

(E) Altering plans for improvements;

(F) Collecting taxes; and

(G) Issuing bonds;

(3) To exercise any and all of the functions of other drainage districts under authority of § 14-121-501 et seq., § 14-121-601 et seq., § 14-121-701 et seq., § 14-121-801 et seq., § 14-121-901 et seq., and § 14-121-1001 et seq.;

(4) To enter upon, take, and hold any lands, or interests or servitudes therein, whether by purchase, grant, donation, devise, or otherwise that may be deemed necessary and proper for the location, construction, operation, repair, or maintenance of any levee, levee foundation, channel rectification, floodway, reservoir, spillway, diversion, drainage canal, or other drainage works contemplated to be constructed and thereafter to be perpetually operated and maintained by the district;

(5) To take, hold, and acquire flowage and storage rights and servitudes upon, over, and across any land which may be necessary and incident to the construction, operation, repair, and maintenance of any necessary levee, levee foundation, channel rectification, floodway, reservoir, spillway, diversion, drainage canal, or other drainage works; and

(6)(A) To perform maintenance services on its merged drainage system for the purposes of:

(i) Preserving the system;

(ii) Keeping the ditches clear from obstruction; and

(iii) Extending, widening, or deepening the ditches from time to time as may be found advantageous to the merged district.

(B) To this end, the board of directors, from time to time, may levy a uniform maintenance service charge on all lands and landowners in the merged district at a flat rate per acre for the maintenance services.

(b)(1) In order that the rights, easements, and servitudes conferred may be acquired, the board of directors of the district is given authority and power to condemn lands or interests therein for such purposes and the authority and power to exercise rights of eminent domain.

(2) Condemnation proceedings therefor shall be instituted and conducted in the manner as is now provided in §§ 18-15-1001 — 18-15-1010 and provided further damages shall be paid for any easement or flowage right or increased use or servitude on any lands by reason of increasing the amount or depth of water on those lands regardless of whether the lands are protected or unprotected by levees, and those damages shall be in addition to damages set out in §§ 18-15-1001 — 18-15-1010. Any action for taking of property or damaging property as provided in this subchapter or in §§ 18-15-1001 — 18-15-1010 shall be commenced within five (5) years from the time the cause of action accrues.

History. Acts 1999, No. 329, § 1.

14-121-1108. Merger and use of assets — Prior liabilities and obligations.

(a) Any drainage district which shall merge the duties, obligations, and purposes for which it was originally created with those of another district under the provisions of this subchapter shall merge all assets held by it and arising from any projects and shall also assume all liabilities of the district whether created for purposes for which the district was originally created or those assumed by it under the provisions of this subchapter.

(b)(1) The assets may be used by the merged district for any and all purposes now or hereafter authorized by law, and the liabilities of the merged district may be paid with funds arising from any source.

(2) However, if at the time of the merger, a merging drainage district has remaining cash balances which were dedicated to specific projects that remain uncompleted at the time of the merger, then those balances

shall be spent only on the specific uncompleted projects, or if the district has made assessments which were dedicated for the construction of a specific project or improvement, then those assessments shall be used only on the specific projects within the boundaries of the former drainage district from which the assessments were made.

(c) All the provisions, rights, securities, pledges, covenants, and limitations contained in the instrument creating the liability shall not be affected by the merger but shall apply with the same force and effect as provided in the original creation of the liability.

(d) All bonds or notes heretofore issued by the drainage district shall not be affected by this merger, but they shall bear the same rate of interest as now provided and shall be due and payable at the time and place provided in the original issue of the bonds or notes.

History. Acts 1999, No. 329, § 1.

14-121-1109. Valid indebtedness unimpaired.

No merger of a district under the terms of this subchapter shall impair or deny any creditor of the merging districts the right to the collection of its bona fide and valid indebtedness existing against the districts, but the creditors of the districts shall be subject to the provisions of this subchapter in connection with the presentation, allowance, or other adjudication with reference to their claim.

History. Acts 1999, No. 329, § 1.

14-121-1110. Claims against district.

(a) All claims against the district existing at the time of the merger of the district shall be presented to the board of directors duly itemized and verified as is required in actions of account. If not presented to the board of directors of the district within six (6) months from the date of the effectiveness of the merger, the claims shall forever be barred.

(b)(1) Within ten (10) days from the allowance or disallowance of any claim presented, the claim shall be filed by the board in the county court with an endorsement thereon as their allowance or disallowance of the same, and within thirty (30) days from the filing of the claim or account in the county court, the county court shall make its order either approving, rejecting, or modifying the actions of the board with reference to any such indebtedness.

(2) Within the time allowed by law for appeal from orders of the county court, either the district, any landowner in the district, or any party claiming to be a creditor of the district may either appeal from the order of the county court to the circuit court or may institute an action against the district in any court of competent jurisdiction for the determination of the existence and amount of the claim.

History. Acts 1999, No. 329, § 1.

CHAPTER 122

MUNICIPAL DRAINAGE IMPROVEMENT DISTRICTS

SUBCHAPTER.

1. General Provisions.

Subchapter 1 — General Provisions

SECTION.

14-122-104. Filing referendum petitions — Special election. [Effective until January 1, 2022.]

SECTION.

14-122-104. Filing referendum petitions — Special election. [Effective January 1, 2022.]

Effective Dates. Acts 2009, No. 1480, § 117: Apr. 10, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act makes various revisions to Arkansas election laws that are designed to improve the administration of elections and special elections and that these revisions should be implemented as soon as possible so that the citizens of this state may benefit from improved election procedures. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2021, No. 610, § 41: Jan. 1, 2022.

14-122-104. Filing referendum petitions — Special election. [Effective until January 1, 2022.]

If petitions signed by not less than fifteen percent (15%) of the qualified electors voting on the office of mayor in the city at the last preceding general election are filed with the city clerk of the city within forty-five (45) days after the enactment of the ordinance creating the municipal drainage improvement district requesting that the ordinance be referred to a vote of the qualified electors of the district, the petitions shall be referred to the people at a special election to be called by the mayor of the municipality in accordance with § 7-11-201 et seq. to be held not more than ninety (90) days after the proclamation.

History. Acts 1975, No. 746, § 3; A.S.A. 1947, § 20-1803; Acts 2005, No. 2145, § 44; 2007, No. 1049, § 65; 2009, No. 1480, § 84.

Publisher's Notes. For text of section effective January 1, 2022, see the following version.

14-122-104. Filing referendum petitions — Special election. [Effective January 1, 2022.]

If petitions signed by not less than fifteen percent (15%) of the qualified electors voting on the office of mayor in the city at the last preceding general election are filed with the city clerk of the city within forty-five (45) days after the enactment of the ordinance creating the municipal drainage improvement district requesting that the ordinance be referred to a vote of the qualified electors of the district, the petitions shall be referred to the people at a special election to be called by the mayor of the municipality in accordance with § 7-11-201 et seq. to be held at the next special election date under § 7-11-205.

History. Acts 1975, No. 746, § 3; A.S.A. 1947, § 20-1803; Acts 2005, No. 2145, § 44; 2007, No. 1049, § 65; 2009, No. 1480, § 84; 2021, No. 610, § 20.

Publisher's Notes. For text of section effective until January 1, 2022, see the preceding version.

Amendments. The 2021 amendment substituted "at the next special election date under § 7-11-205" for "not more than ninety (90) days after the proclamation".

Effective Dates. Acts 2021, No. 610, § 41: Jan. 1, 2022.

CHAPTER 123

LEVEE IMPROVEMENT DISTRICTS GENERALLY

SUBCHAPTER.

Subchapter 2 — District Establishment

SECTION.

14-123-204. Consolidation of levee districts and boards — Cooperation with other states.

(a) If there is land in one (1) or more counties subject to overflow from the same crevasses or direction, and which can be protected by the same system of levees, the directors of the several levee districts of the one (1) or more counties may, by the consent of the county court or courts of the county or counties entered of record, consolidate the several levee districts into one (1) levee district, and the directors of the several levee districts shall constitute the board of directors of the consolidated levee district and shall represent the several levee districts in the consolidated levee district.

(b) The board of directors of the consolidated levee district shall elect a president, secretary, treasurer, and auditor and allow salary to each as his or her services may justify.

(c) The board of directors of the consolidated levee district shall control and supervise the interests of the several levee districts within

the consolidated levee district, and the officers of all county levee boards within the consolidated levee district shall report to the board of directors of the consolidated levee district through their county directors.

(d) The board of directors of the consolidated levee district may cooperate with any levee board of another state if necessary to complete the system of levees within the consolidated levee district.

(e) The notice required under § 14-123-202 for the formation of a new levee district is not required for the consolidation of existing levee districts under this section.

History. Acts 1891, No. 163, § 1, p. 297; C. & M. Dig., §§ 6811, 6812; Pope's Dig., §§ 4537, 4538; A.S.A. 1947, § 21-601; Acts 2021, No. 265, § 1.

Amendments. The 2021 amendment inserted "levee" in the section heading; rewrote (a)-(d); and added (e).

Subchapter 3 — Board of Directors or Assessors

SECTION.
14-123-316. Compensation of directors, assessors, employees, etc.

14-123-316. Compensation of directors, assessors, employees, etc.

(a) The directors and assessors shall each receive the sum of up to fifty dollars ($50.00) per day for attending meetings of the board and while actually and necessarily engaged in the performance of their duties under this act.

(b) The directors shall be authorized to employ an engineer at a price not to exceed one hundred fifty dollars ($150) per month while actually engaged in the performance of his or her duties.

(c) The board of directors or board of commissioners of levee districts organized under general laws or special acts shall have the power to fix the amount of compensation to be paid to the officers and employees of the district who are required to devote all their time to the performance of the duties of their office or employment.

History. Acts 1879, No. 78, § 19, p. 117; 1909, No. 231, § 2, p. 696; C. & M. Dig., § 6842; Pope's Dig., § 4568; Acts 1943, No. 49, § 1; A.S.A. 1947, §§ 21-611, 21-612; Acts 2011, No. 187, § 1.

Subchapter 6 — Dissolution or Abolition of Levee Districts

SECTION.
14-123-601. Applicability.
14-123-602. Filing of petition.
14-123-603. Notice and hearing.
14-123-604. Contracts during pendency of petition.
14-123-605. Valid indebtedness unimpaired.
14-123-606. Claims against district.
14-123-607. Partial continuance.
14-123-608. Indebtedness of dissolved districts — Levy and collection of tax.

14-123-601. Applicability.

This subchapter applies to a levee district created under § 14-123-201 et seq.

History. Acts 2021, No. 266, § 1.

14-123-602. Filing of petition.

(a) The board of commissioners or board of directors of a levee district subject to this subchapter, or not less than a majority of the property owners in the district determined either in number, in acreage, or in value of the lands of the district, if deemed inadvisable or impractical and not for the best interest of the property owners of the district to construct or continue the improvements contemplated by the organization of the district, may file a petition in the county court in which the original petition to create the district was filed, petitioning the court to abolish or dissolve the district.

(b) In the petition, the commissioners or landowners filing the petition shall explain the reasons the district should be abolished or dissolved.

History. Acts 2021, No. 266, § 1.

14-123-603. Notice and hearing.

(a) Upon the filing of a petition under § 14-123-602, the county court shall direct the county clerk of the court to give notice by publication in a newspaper of general circulation in the county in which the property of the district lies for not less than two (2) consecutive weekly publications, which notice shall set out the purpose of the petition and the day set for the hearing thereon.

(b) The court shall fix a day for the hearing of the petition and shall hear the evidence thereon, and if it is of the opinion that it is for the best interests of the property owners of the district that the petition be granted, it shall abolish or dissolve the district, but if it is of the opinion that it is for the best interest of the property owners that the organization of the district be continued, then it shall overrule the petition.

(c) The overruling of one (1) petition for the dissolution or abolition of a district or a determination of the court in that hearing that the petition is not signed by the requisite number of landowners shall not be a bar to the filing of another petition for that purpose.

(d) If all positions on the board of commissioners or board of directors of the district to be dissolved or abolished are vacant, the county court shall appoint an administrator to act as the board of commissioners in accordance with § 14-86-105.

History. Acts 2021, No. 266, § 1.

14-123-604. Contracts during pendency of petition.

During the pendency of the petition under § 14-123-602 and before the hearing on the petition, the county court may prohibit the commissioners of the district subject to the terms of this subchapter at the time of the filing of the petition from the making of contracts, the pledging of assessments or betterments, the incurring of new indebtedness, or the issuance of bonds or other obligations of the district.

History. Acts 2021, No. 266, § 1.

14-123-605. Valid indebtedness unimpaired.

The dissolution of a district under the terms of this subchapter shall not impair or deny any creditor of the district the right to the collection of its bona fide and valid indebtedness existing against the district, but the creditors of the district shall be subject to this subchapter in connection with the presentation, allowance, or other adjudication with reference to their claim.

History. Acts 2021, No. 266, § 1.

14-123-606. Claims against district.

(a)(1) All claims against the district existing at the time the county court makes an order for the dissolution of the district shall be presented to the commissioners duly itemized and verified as is required in actions of account.

(2) If not presented to the commissioners of the district within six (6) months from the date of the county court order of dissolution, future claims are barred.

(b) Within ten (10) days from the allowance or disallowance of any claim presented to the commissioners, the claim shall be filed by the commissioners in the county court with an endorsement reflecting allowance or disallowance, and within thirty (30) days from the filing of the claim or account in the county court, the county court shall make its order either approving, rejecting, or modifying the actions of the commissioners with reference to the indebtedness.

(c) Within the time allowed by law for appeal from orders of the county court, the district, any landowner within the district, or any party claiming to be a creditor of the district may either appeal from the order of the county court to the circuit court or any creditor may institute an action against the district in any court of competent jurisdiction for the determination of the existence and amount of his or her claim.

History. Acts 2021, No. 266, § 1.

14-123-607. Partial continuance.

(a) A district dissolved or abolished under this subchapter shall continue in existence for the purpose of prosecuting and defending suits by or against the district and for the purpose of enabling the district to settle, close its business, to dispose of and convey its property, to levy, receive, and distribute taxes which are levied or collected for the purpose of meeting the obligations of the district, but not for the purpose of constructing the improvements for which the district shall have been established or for the purpose of creating any new indebtedness therefor other than indebtedness incident to the liquidation and settlement of the affairs of the district.

(b) Notwithstanding the order of dissolution, commissioners may be appointed or removed in the same manner as if the order of dissolution had not been made.

History. Acts 2021, No. 266, § 1.

14-123-608. Indebtedness of dissolved districts — Levy and collection of tax.

(a)(1) When the indebtedness owed by a district dissolved under the provisions of this subchapter has been determined, it is the duty of the commissioners to certify to the county court the determination as to a tax levy upon the real property of the district that is sufficient to pay the indebtedness thereof, including the reasonable expenses of dissolution and settlement of the affairs of the district, which expenses shall be subject to the approval, modification, or rejection by the county court.

(2) Upon ascertainment by the county court that the levy is required for the purpose of this subchapter, the county court shall approve the levy by its order and certify the amount of the levy to the quorum court of the county in which the district is located.

(b) The levy shall be upon the assessed value of the real property in the district for the state and county taxation as it appears upon the county assessment records.

(c) The taxes shall be collected and delinquencies shall be enforced in the same manner as if the district had continued in existence for the purpose of making the improvements contemplated by its original organization.

History. Acts 2021, No. 266, § 1.

CHAPTER 124

ALTERNATIVE METHOD OF ASSESSMENT AND COLLECTION OF TAXES IN LEVEE IMPROVEMENT DISTRICTS OF MORE THAN ONE COUNTY

14-124-115. Levy of tax — Limitation on rate.

(a) The board of directors or commissioners shall annually, at a regular meeting or at a special meeting called for that purpose, levy a tax on the benefits as assessed and equalized by the board of assessment and equalization.

(b) The rate of the tax shall be subject to the limitation, for the equal protection of all classes of property, that the tax on rural lands according to the rate shall not exceed two dollars and fifty cents ($2.50) per acre.

History. Acts 1941, No. 287, § 14; A.S.A. 1947, § 21-714; Acts 2021, No. 267, § 2.

Amendments. The 2021 amendment substituted "two dollars and fifty cents ($2.50) per acre" for "twenty-five cents (25¢) an acre" in (b).

CHAPTER 125

CONSERVATION DISTRICTS LAW

Subchapter 1 — General Provisions

A.C.R.C. Notes. Acts 2005, No. 1243, § 2, provided:

"Arkansas Soil and Water Conservation Commission renamed 'Arkansas Natural Resources Commission'.

"(a)(1) The 'Arkansas Soil and Water Conservation Commission' as it is referred to or empowered throughout the Arkansas Code, is renamed.

"(2) In its place, the 'Arkansas Natural Resources Commission' is established, succeeding to the general powers and responsibilities previously assigned to the Arkansas Soil and Water Conservation Commission.

"(3) The Executive Director of the Arkansas Soil and Water Conservation Commission is directed to identify and revise all interagency agreements, financial instruments, funds, and other necessary legal documents in order to effect this change.

"(b) Nothing in this act shall be construed as impairing the powers and authorities of the Arkansas Soil and Water Conservation Commission before the effective date of the name change."

14-125-105. Legislative policy.

It is declared to be the policy of the General Assembly to provide for the control and prevention of soil erosion, for the prevention of floodwater and sediment damages, and for furthering the conservation, development, and utilization of soil and water resources and the disposal of water, and thereby to preserve natural resources, control floods, prevent impairment of dams and reservoirs, assist in maintaining the navigability of rivers and harbors, preserve wildlife, assist in the control of nonpoint source pollution, protect the tax base, protect public lands, and protect and promote the health, safety, and general welfare of the people of this state.

History. Acts 1937, No. 197, § 2; Pope's Dig., § 11834; Acts 1965, No. 424, § 1; A.S.A. 1947, § 9-902; Acts 2003, No. 1060, § 2.

14-125-108. Development of soil conservation program — Powers and duties of commission.

(a) The Arkansas Natural Resources Commission in cooperation with the land grant college in the state shall develop a program for soil conservation and for other purposes as provided for in this chapter, which shall be recognized as the state's policy in soil conservation. It may perform such acts, hold such public hearings, and promulgate such rules as may be necessary for the execution of its functions under this chapter.

(b) The commission may employ technical experts and other agents and employees, permanent and temporary, as it may require, and shall determine their qualifications and duties. The commission may call upon the Attorney General of the state for the legal services it may require. It shall have authority to delegate to its chair, to one (1) or more of its members, or to one (1) or more agents or employees such powers and duties as it may deem proper. Upon request of the commission for the purpose of carrying out any of its functions, the supervising officer of any state agency, or of any state institution of learning may, insofar

as may be possible under available appropriations, and having due regard to the needs of the agency to which the request is directed, assign or detail to the commission members of the staff or personnel of the agency or institution of learning, and make special reports, surveys, or studies as the commission may request.

(c) In addition to the duties and powers hereinafter conferred upon the commission, it shall have the following duties and powers:

(1) To offer such assistance as may be appropriate to the directors of soil conservation districts, organized as provided hereinafter, in the carrying out of any of their powers and programs;

(2) To keep the directors of each of the several districts organized under the provisions of this chapter informed of the activities and experience of all other districts organized hereunder and to facilitate an interchange of advice and experience between the districts and cooperation between them;

(3) To coordinate the programs of the several soil conservation districts organized hereunder so far as this may be done by advice and consultation;

(4) To secure the cooperation and assistance of the United States and of any of its agencies, and of agencies of this state, in the work of the districts;

(5) To disseminate information throughout the state concerning the activities and programs of the soil conservation districts organized hereunder and to encourage the formation of the districts in areas where their organization is desirable.

History. Acts 1937, No. 197, § 4; Pope's Dig., § 11836; Acts 1963, No. 14, § 18; 1973, No. 140, § 1; A.S.A. 1947, § 9-904; Acts 2019, No. 315, § 1001.

Amendments. The 2019 amendment deleted "and regulations" following "rules" in the second sentence of (a).

14-125-109. Payments made to district by commission.

(a) For the purpose of aiding the development and general operation of the respective soil conservation districts of this state, the Arkansas Natural Resources Commission is authorized to make payments to the districts from time to time from funds appropriated for that purpose. All payments made to soil conservation districts shall be used for the purposes authorized by law, and no payments may be made to any district that does not comply with the provisions of this section.

(b)(1) Whenever the General Assembly shall have appropriated funds to be used for making payments as authorized by this section, the commission shall annually through its designated employee give notice to all soil conservation districts of this state that applications for payments will be received by the commission on or before a date designated by the commission, which date shall be at least thirty (30) days after the date of notice.

(2) Any soil conservation district desiring to receive payments under the provisions of this section shall make application therefor upon

forms furnished by the commission and shall return the application to the commission on or before the date specified by the commission.

(3) All applications for payments shall be signed and verified by the chair and secretary of the board of directors of the soil conservation district.

(4) The application form shall contain a statement that the signers thereof understand the purposes for which payments will be received and that they agree to use the payments for the purpose for which they are made and will be held accountable for any misuse of the payments.

(5) No application for payments shall be considered by the commission that is not prepared and signed according to the rules of the commission or which is received after the date specified by the commission for receiving applications.

(c) Payments made to the various conservation districts of this state shall be used only in furtherance of the purposes of this chapter and shall be in such amounts and with such restrictions as prescribed by the rules of the commission.

(d)(1)(A) Arkansas Legislative Audit may annually audit the books and accounts of each of the soil conservation districts receiving payments under the provisions of this section.

(B) All payments made to the districts shall be used for the purposes provided for in this section.

(2)(A) Any soil conservation district which violates the provisions of this section shall not be eligible for payments under the provisions of this section for three (3) years.

(B) Any member of the board of directors of any soil conservation district or any other person who violates any of the provisions of this section shall be guilty of a misdemeanor.

History. Acts 1957, No. 196, §§ 1-4; 1963, No. 14, § 17; 1969, No. 181, § 5; 1971, No. 160, § 1; 1973, No. 140, § 3; A.S.A. 1947, §§ 9-914 — 9-917; Acts 2005, No. 903, § 1; 2019, No. 315, §§ 1002, 1003.

Amendments. The 2019 amendment deleted "and regulations" following "rules" in (b)(5) and (c).

Subchapter 2 — District Organization

SECTION.

A.C.R.C. Notes. Acts 2005, No. 1243, § 2, provided:

"Arkansas Soil and Water Conservation Commission renamed 'Arkansas Natural Resources Commission'.

"(a)(1) The 'Arkansas Soil and Water Conservation Commission' as it is referred to or empowered throughout the Arkansas Code, is renamed.

"(2) In its place, the 'Arkansas Natural Resources Commission' is established, succeeding to the general powers and responsibilities previously assigned to the Arkansas Soil and Water Conservation Commission.

"(3) The Executive Director of the Arkansas Soil and Water Conservation Commission is directed to identify and revise all interagency agreements, financial instruments, funds, and other necessary legal documents in order to effect this change.

"(b) Nothing in this act shall be construed as impairing the powers and authorities of the Arkansas Soil and Water Conservation Commission before the effective date of the name change."

14-125-204. Expenses and conduct of hearings and referenda.

(a) The Arkansas Natural Resources Commission shall pay all expenses for the issuance of notices and the conduct of the hearings and referenda and shall supervise the conduct of the hearings and referenda.

(b) It shall issue appropriate rules governing the conduct of the hearings and referenda, and providing for the registration prior to the date of the referendum of all eligible voters, or prescribing some other appropriate procedure for the determination of those eligible as voters in the referendum.

(c) No informalities in the conduct of the referendum or in any matters relating thereto shall invalidate the referendum or its result if notice thereof shall have been given substantially as herein provided and the referendum shall have been fairly conducted.

History. Acts 1937, No. 197, § 5; Pope's Dig., § 11837; Acts 1945, No. 225, § 1; 1965, No. 424, § 3; A.S.A. 1947, § 9-905; Acts 2019, No. 315, § 1004.

Amendments. The 2019 amendment substituted "rules" for "regulations" in (b).

Subchapter 3 — Board of Directors

SECTION.

A.C.R.C. Notes. Acts 2005, No. 1243, § 2, provided:

"Arkansas Soil and Water Conservation Commission renamed 'Arkansas Natural Resources Commission'.

"(a)(1) The 'Arkansas Soil and Water Conservation Commission' as it is referred to or empowered throughout the Arkansas Code, is renamed.

"(2) In its place, the 'Arkansas Natural Resources Commission' is established, succeeding to the general powers and responsibilities previously assigned to the Arkansas Soil and Water Conservation Commission.

"(3) The Executive Director of the Arkansas Soil and Water Conservation Commission is directed to identify and revise

all interagency agreements, financial instruments, funds, and other necessary legal documents in order to effect this change.

"(b) Nothing in this act shall be construed as impairing the powers and authorities of the Arkansas Soil and Water Conservation Commission before the effective date of the name change."

14-125-301. Directors generally.

(a)(1) The governing body of the district shall consist of five (5) directors, elected or appointed pursuant to this chapter.

(2) The three (3) elected directors shall be qualified electors residing in the district.

(3) The two (2) directors appointed by the Arkansas Natural Resources Commission shall be persons who are owners of land within the district and who are by training and experience qualified to perform the services which will be required of them in the performance of their duties under this chapter.

(b) The directors shall designate a chair and may, from time to time, change the designation.

(c) The term of office of each director shall begin on the first day of the month next following his or her date of election or appointment, as the case may be, and shall be for three (3) years. The directors who are first appointed shall be designated to serve for terms of one (1) year and two (2) years, respectively, from the date of their appointment.

(d) Before entering on the duties of office, each director shall take and subscribe to the oath of office required by Arkansas Constitution, Article 19, § 20.

(e) A director shall hold office until his or her successor has been elected or appointed and has qualified.

(f) All vacancies shall be filled by appointment by the commission. Vacancies in the office of an elected director shall be filled for the unexpired term. Vacancies in the office of an appointed director shall be filled for a new full term.

(g) In making appointments, the commission shall consider any recommendation which may be made by the remaining members of the local board.

(h) A majority of the directors shall constitute a quorum, and the concurrence of the majority in any matter within their duties shall be required for its determination.

(i) As reimbursement for his or her attendance at any scheduled meeting of the district, a director may receive a sum not to exceed fifteen dollars ($15.00) plus mileage allowance at the same rate authorized by law or state travel rules for state employees, per mile traveled from his or her home to the place of meeting and return. He or she may also be reimbursed for his or her actual expenses, including traveling expenses, necessarily incurred in the discharge of his or her other duties.

(j) Any director may be removed by the commission upon notice and hearing, for neglect of duty or malfeasance in office, but for no other reason.

(k) A director shall not qualify for reappointment or reelection unless he or she shall have attended at least sixty-five percent (65%) of the scheduled conservation district board meetings and at least three (3) state or area meetings during each three-year term of office; provided, however, absences which are excused by the commission shall not disqualify a director for reappointment or reelection. Furthermore, the commission shall not require a director to personally appear before the commission in order to receive a waiver.

(l) However, upon a showing of good cause, this condition may be waived by resolution duly adopted by the commission.

History. Acts 1937, No. 197, § 7; Pope's Dig., § 11839; Acts 1969, No. 181, § 4; 1977, No. 295, § 1; 1983, No. 687, § 1; A.S.A. 1947, § 9-907; Acts 1993, No. 1005, § 1; 2019, No. 315, § 1005.

Amendments. The 2019 amendment substituted "rules" for "regulations" in the first sentence of (i).

14-125-302. Election of directors.

(a) Within thirty (30) days after the date of issuance by the Secretary of State of a certificate of organization of a conservation district, nominating petitions may be filed with the Arkansas Natural Resources Commission to nominate candidates for directors of the district.

(b)(1) The commission shall have authority to extend the time within which nominating petitions may be filed.

(2) No such nominating petition shall be accepted by the commission unless it shall be subscribed by twenty-five (25) or more qualified electors within the boundaries of the district.

(3) Qualified electors may sign more than one (1) such nominating petition to nominate more than one (1) candidate for director.

(4) The commission shall give due notice of an election to be held for the election of three (3) directors for the district.

(5) The names of all nominees on behalf of whom the nominating petitions have been filed within the time herein designated shall be printed, arranged in alphabetical order of the surnames upon ballots, with a direction to vote for three (3) by placing an "X" in the square beside the name of each person for whom the voter wishes to vote.

(6) All qualified electors within the district shall be eligible to vote in the election.

(7) The three (3) candidates who shall receive the largest number, respectively, of the votes cast in the election shall be the elected directors for the district.

(8) The commission shall:

(A) Pay all the expenses of the election;

(B) Supervise the conduct thereof;

(C) Prescribe rules governing the conduct of the election and the determination of the eligibility of voters therein; and

(D) Publish the results and report results of the election to the Secretary of State.

(c)(1) Subsequent elections shall be conducted in the same manner. However, the district shall pay all the expenses of the elections, and the nominating petitions for candidates shall be filed with the commission during the first two (2) weeks of February of the year of election.

(2) The elections shall be scheduled as follows:

(A) On the first Tuesday in March 2000, and on the first Tuesday in March every third year thereafter, in those districts which have the greatest amount of district territory in the following counties:

Boone
Carroll
Clark
Clay
Cleburne
Cleveland
Columbia
Conway
Crawford
Cross
Fulton
Greene
Jefferson
Little River
Logan
Lonoke
Poinsett
Polk
Saline
Scott
Searcy
St. Francis
White
Woodruff
Yell

(B) On the first Tuesday in March 1998, and on the first Tuesday in March every third year thereafter, in those districts which have the greatest amount of district territory in the following counties:

Baxter
Calhoun
Craighead
Dallas
Faulkner
Garland
Hempstead
Monroe
Nevada
Newton
Ouachita
Perry
Phillips
Pike
Pope
Prairie
Pulaski
Randolph
Sebastian
Sevier
Sharp
Stone
Union
Van Buren
Washington

(C) On the first Tuesday in March 1999, and on the first Tuesday in March every third year thereafter in those districts which have the greatest amount of district territory in the following counties:

Arkansas
Ashley
Benton
Hot Spring
Howard
Independence

Bradley
Chicot
Crittenden
Desha
Drew
Franklin
Grant
Madison
Marion
Miller
Izard
Jackson
Johnson
Lafayette
Lawrence
Lee
Lincoln
Mississippi
Montgomery

History. Acts 1937, No. 197, § 6; Pope's Dig., § 11838; Acts 1969, No. 181, § 3; 1973, No. 140, § 2; 1985, No. 676, § 1; A.S.A. 1947, § 9-906; Acts 1997, No. 505, § 1; 2019, No. 315, § 1006.

Amendments. The 2019 amendment substituted "rules" for "regulations" in (b)(8)(C).

Subchapter 4 — Division or Combination of Districts

SECTION.

A.C.R.C. Notes. Acts 2005, No. 1243, § 2, provided:

"Arkansas Soil and Water Conservation Commission renamed 'Arkansas Natural Resources Commission'.

"(a)(1) The 'Arkansas Soil and Water Conservation Commission' as it is referred to or empowered throughout the Arkansas Code, is renamed.

"(2) In its place, the 'Arkansas Natural Resources Commission' is established, succeeding to the general powers and responsibilities previously assigned to the Arkansas Soil and Water Conservation Commission.

"(3) The Executive Director of the Arkansas Soil and Water Conservation Commission is directed to identify and revise all interagency agreements, financial instruments, funds, and other necessary legal documents in order to effect this change.

"(b) Nothing in this act shall be construed as impairing the powers and authorities of the Arkansas Soil and Water Conservation Commission before the effective date of the name change."

14-125-403. Conduct of referendum.

(a) Within sixty (60) days after a petition has been filed with the Arkansas Natural Resources Commission pursuant to § 14-125-402, the commission shall give due notice of the holding of a referendum, shall supervise and conduct the referendum, and shall issue appropriate rules governing the conduct thereof.

(b) Each owner of land lying within the district or districts to be affected shall be entitled to vote, and only such landowners shall be entitled to vote.

(c) The commission shall make provisions on the referendum for each landowner to vote:

(1) On whether or not he or she approves of the proposed division, if any, of the district in which his or her land is located; and

(2) On whether or not he or she approves of the proposed new district in which his or her land will be located under the proposed combination, if any.

(d) No informalities in the conduct of the referendum or in any matters relating thereto shall invalidate the referendum or the result thereof if notice shall have been given substantially as provided in this section and the referendum shall have been fairly conducted.

History. Acts 1937, No. 197, § 5; Pope's Dig., § 11837; Acts 1945, No. 225, § 1; A.S.A. 1947, § 9-905; Acts 2019, No. 315, § 1007.

Amendments. The 2019 amendment substituted "rules" for "regulations" in (a).

Subchapter 9 — Discontinuance of Districts

A.C.R.C. Notes. Acts 2005, No. 1243, § 2, provided:

"Arkansas Soil and Water Conservation Commission renamed 'Arkansas Natural Resources Commission'.

"(a)(1) "The 'Arkansas Soil and Water Conservation Commission' as it is referred to or empowered throughout the Arkansas Code, is renamed.

"(2) In its place, the 'Arkansas Natural Resources Commission' is established, succeeding to the general powers and responsibilities previously assigned to the Arkansas Soil and Water Conservation Commission.

"(3) The Executive Director of the Arkansas Soil and Water Conservation Commission is directed to identify and revise all interagency agreements, financial instruments, funds, and other necessary legal documents in order to effect this change.

"(b) Nothing in this act shall be construed as impairing the powers and authorities of the Arkansas Soil and Water Conservation Commission before the effective date of the name change."

CHAPTER 126

ALTERNATIVE METHOD OF ASSESSMENT OF TAXES IN LEVEE IMPROVEMENT DISTRICTS OF MORE THAN TWO COUNTIES

14-126-101. Resolution required.

(a) This chapter shall not be in force as to any levee district until:

(1) A proper resolution to that effect is adopted by the board of directors of the levee district; and

(2) A copy of the resolution is published in a newspaper in each county that in whole or in part is embraced in the levee district.

(b) If the board of directors of a levee district chooses to adopt this chapter by resolution, its provisions shall be supplemental to other laws under which the levee district is established and operates.

(c)(1) The board of directors of a levee district may rescind a resolution adopted under this chapter.

(2) If a resolution is rescinded, a notice to that effect shall be published in a newspaper in each county that in whole or in part is embraced in the levee district.

History. Acts 2013, No. 570, § 1.

14-126-102. Alternative method of assessments.

(a) The board of directors of a levee district that includes more than two (2) counties may, at a regular meeting or at a special meeting called for the purpose, adopt a resolution providing for assessments as provided in this section.

(b)(1) The board of directors of a levee district that includes more than two (2) counties may provide by resolution for an annual assessment under this section upon:

(A) All real estate subject to overflow in the district;

(B) All improvements on real estate subject to overflow in the district; and

(C) Telephone, electrical light and power lines, and pipelines subject to overflow within the district.

(2)(A) The board of directors of a levee district may assess a tax on the real estate subject to overflow in the district in the amount of thirty cents (30¢) per acre or city lot.

(B) The board of directors of a levee district may assess a millage upon all improvements to real estate subject to overflow in the district in an amount not to exceed twenty (20) mills on the dollar of the assessed value as the property is assessed for state and county tax purposes.

(3) The millage assessed upon telephone, electrical light and power lines, and pipelines subject to overflow within the district shall not exceed twenty (20) mills on the dollar of twenty percent (20%) of the assessed valuation of the utility company based on calculations by the Arkansas Public Service Commission that are provided to the tax assessor in each county within the levee district.

(c) The board of directors of a levee district may assess a tax on a railroad, its right-of-way, and roadbed subject to overflow within the district in an amount not to exceed two hundred fifty dollars ($250) per mile within the district.

(d) The alternative assessments under this section shall be in lieu of assessments required by other laws under which the levee district is established and operates.

History. Acts 2013, No. 570, § 1.

14-126-103. Review of alternative assessment.

(a)(1) A person aggrieved by an alternative assessment under this chapter may petition to have the assessment reviewed by the board of directors.

(2) A petition for review shall be filed within thirty (30) days from the date when the assessment becomes effective.

(3) The board of directors may lower, raise, equalize, or determine the proper amount of benefit assessable against the property described in the petition.

(4) The amount and legality of an assessment made by a district, in the absence of a petition for a review, is conclusive.

(b)(1)(A) Within thirty (30) days of the conclusion of a review by the board of directors, an appeal may be filed with the county equalization board of the county in which the:

(i) Property is situated; or

(ii) District has its domicile if the property involved is in more than one (1) county.

(B) A copy of the appeal shall be delivered to the:

(i) President of the levee district; or

(ii) Chair of the board of directors of the levee district.

(2)(A) An appeal before the county equalization board shall be heard on the evidence introduced before the board of directors.

(B) Additional or different evidence shall not be admissible except on an issue of corrupt purpose or fraudulent action on the part of the board of directors resulting in a wrongful and discriminatory assessment.

(3) The right of review is part of the administrative remedy for relief from wrongful or erroneous assessments.

(4)(A) The county equalization board shall hear the petition as expeditiously as possible.

(B) The county equalization board may lower, raise, equalize, or determine the proper amount of benefit assessable against the property described in the appeal.

(C) As soon as the county equalization board determines the proper assessment under a petition pending before it, the county equalization board shall promptly certify the assessment to the district, and the district shall modify the assessment as necessary.

(c)(1)(A) Within thirty (30) days of the conclusion of an appeal to the county equalization board, an appeal may be filed with the circuit court of the county in which the:

(i) Property is situated; or

(ii) District has its domicile if the property involved is in more than one (1) county.

(B) A copy of the appeal to the circuit court shall be delivered to the:

(i) President of the levee district; or

(ii) Chair of the board of directors of the levee district.

(2)(A) Review shall be heard on the evidence introduced before the board of directors.

(B) Additional or different evidence shall not be admissible except on an issue of corrupt purpose or fraudulent action on the part of the board of directors resulting in a wrongful and discriminatory assessment.

(3) The right of review is part of the administrative remedy for relief from wrongful or erroneous assessments.

(4)(A) The circuit court shall hear the petition as expeditiously as possible.

(B) The circuit court may lower, raise, equalize, or determine the proper amount of benefit assessable against the property described in the appeal.

(5) As soon as the circuit court determines the proper assessment under a petition pending before it, the clerk of the circuit court shall promptly certify the assessment to the district, and the district shall modify the assessment as necessary.

(d)(1)(A) An appeal may be filed from the assessment fixed by the circuit court with the Supreme Court.

(B) The transcript shall be filed with the Clerk of the Supreme Court within sixty (60) days from the issuance of the decree of the circuit court.

(2) The Supreme Court shall advance the appeal on its docket as involving a matter of public interest.

History. Acts 2013, No. 570, § 1.

SUBTITLE 8. PUBLIC FACILITIES GENERALLY

CHAPTER 137

PUBLIC FACILITIES BOARDS

SECTION.

Effective Dates. Acts 2003, No. 1772, § 5: Apr. 22, 2003. Emergency clause provided: "It is found and determined by the General Assembly that the counties, municipalities, public instrumentalities and other governmental entities of the State of Arkansas are experiencing severe jail overcrowding, and that existing jail facilities may not be in compliance with applicable state and federal regulations. It is further recognized that funding for jail renovation, improvement, and construction is extremely limited and oftentimes can be funded only through the implementation of new sales taxes, and that the failure to immediately address this problem could result in the possible closure of existing jail facilities, and the release of incarcerants prior to the schedule expiration of their terms. Therefore, an emergency is declared to exist, and this act being immediately necessary for the pres-

ervation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

CASE NOTES

Cited: Sanders v. Bradley County Human Servs. Pub. Facilities Bd., 330 Ark. 675, 956 S.W.2d 187 (1997).

14-137-101. Title.

CASE NOTES

Cited: Gillam v. Harding Univ., No. 4:08-CV-00363-BSM, 2009 U.S. Dist. LEXIS 53609 (E.D. Ark. June 24, 2009).

14-137-104. Provisions supplemental and controlling.

CASE NOTES

Legislative Intent.

The General Assembly, in subsection (c), has mandated independence between the facilities boards and the counties. Sanders v. Bradley County Human Servs. Pub. Facilities Bd., 330 Ark. 675, 956 S.W.2d 187 (1997).

14-137-106. Creation — Purposes — Definition.

A.C.R.C. Notes. Acts 1997, No. 208, § 1, as reenacted by Acts 2017, No. 255, § 1, provided: "Legislative intent and purpose. The General Assembly hereby acknowledges that many of the laws relating to individuals with disabilities are antiquated, functionally outmoded, derogatory, and ambiguous or are inconsistent with more recently enacted provisions of the law. Consequently, it is the intent of the General Assembly and the purpose of this act to clarify the relevant chapters of Titles 1, 6, 9, 13, 14, 16, 17, 20, 22, 23, and 27 of the Arkansas Code of 1987 Annotated."

CASE NOTES

Illustrative Cases.

City of Searcy, Arkansas, did not violate the First Amendment to the U.S. Constitution, Ark. Const., Amend. 65, or Ark. Const., Art. 12, § 5 when it created a housing facilities board under the Arkansas Public Facilities Board Act (PFBA), § 14-137-101 et seq., and issued bonds so a university that was associated with the Churches of Christ could fund building projects. The PFBA allowed the housing facilities board to issue bonds to finance projects that had a public purpose, education was a public purpose, and neither the city nor the board acted with the purpose of advancing or inhibiting religion. Gillam v. Harding Univ., No. 4:08-CV-00363-BSM, 2009 U.S. Dist. LEXIS 53609 (E.D. Ark. June 24, 2009).

Cited: Sanders v. Bradley County Human Servs. Pub. Facilities Bd., 330 Ark. 675, 956 S.W.2d 187 (1997).

14-137-107. Creating ordinance — Authority.

CASE NOTES

Cited: Sanders v. Bradley County Human Servs. Pub. Facilities Bd., 330 Ark. 675, 956 S.W.2d 187 (1997).

14-137-108. Board members.

(a)(1) Each public facilities board shall consist of five (5) members unless there is an expansion of the board to provide services outside the boundaries of the governmental unit from which it obtains power.

(2) The provisions of this subsection are applicable only to:

(A) Boards in counties having a population of less than one hundred fifty thousand (150,000) according to the most recent federal decennial census; and

(B) All boards established by municipalities having a population of less than one hundred thousand (100,000) according to the most recent federal decennial census, regardless of where located.

(3)(A)(i) The initial members shall be appointed by the mayor of the creating municipality or the county judge of the creating county for terms, respectively, of:

(a) One (1) year;

(b) Two (2) years;

(c) Three (3) years;

(d) Four (4) years; and

(e) Five (5) years.

(ii) Members are not required to be residents of the municipality or county that has created the public facilities board.

(B)(i)*(a)* Successor members shall be nominated by a majority of the board and appointed by the mayor or the county judge, subject to confirmation by the governing body of the municipality or county for staggered terms of five (5) years each, unless the ordinance pursuant to which the public facilities board was formed provides for electing successor members by the membership of the board's service area.

(b) The board shall submit a written list of three (3) successor nominees to the mayor or the county judge at least sixty (60) days before the expiration of the term.

(c) If the board fails to submit a written list of nominees at least sixty (60) days before the expiration of the term, the mayor or the county judge may appoint a successor member without a nomination from the board.

(ii) In a municipality located in a metropolitan statistical area designated by the United States Bureau of the Census having a population of one million (1,000,000) or more persons according to the most recent federal decennial census, successor members shall be appointed by a majority of the board.

(C) Each member shall serve until his or her successor is elected and qualified.

(D) A member is eligible to succeed himself or herself.

(4) Each member shall qualify by taking and filing with the clerk of the municipality or county creating the board the oath of office in which the member shall swear to support the United States Constitution and the Arkansas Constitution and to discharge faithfully his or her duties in the manner provided by law.

(5)(A)(i) In the event of a vacancy in the membership of the board, however caused, the mayor or the county judge shall appoint a successor member nominated by a majority of the board to serve the unexpired term, subject to confirmation by the governing body of the municipality or county.

(ii) The board shall submit a written list of three (3) nominees to fill the vacancy to the mayor or the county judge not later than sixty (60) days after the vacancy occurs.

(iii) If the board fails to submit a written list of nominees not later than sixty (60) days after the vacancy, the mayor or the county judge may appoint a successor member without a nomination from the board.

(B) In the event of a vacancy in the membership of the board, however caused, in a municipality located in a metropolitan statistical area designated by the United States Bureau of the Census having a population of one million (1,000,000) or more persons according to the most recent federal decennial census, the board shall appoint a successor member to serve the unexpired term.

(6) A member of the board shall not receive compensation for his or her services, but is entitled to reimbursement for reasonable and necessary expenses incurred in the performance of his or her duties.

(7) Any member of the board may be removed for misfeasance, malfeasance, or willful neglect of duty by the mayor of the municipality or the county judge of the county, as the case may be, which created the board, after reasonable notice of and an opportunity to be heard concerning the alleged grounds for removal.

(8)(A)(i) If the jurisdiction of a board, pursuant to interlocal agreements, expands to provide services outside the boundaries of the governmental unit from which it obtains power, then not more than two (2) additional members per governmental unit may be added pursuant to the terms of any relevant interlocal agreement.

(ii)*(a)* Each member shall be appointed by the mayor of the newly participating municipality or the county judge of the newly participating county and shall serve for a term agreed upon in the interlocal agreement.

(b) The term shall not exceed five (5) years.

(B)(i) The other provisions of this section shall apply to these additional members.

(ii) No additional member is eligible to serve as chair of the board.

(b)(1) County public facilities boards in counties having a population of one hundred fifty thousand (150,000) or more according to the most recent federal decennial census and public facilities boards established

by all municipalities having a population of one hundred thousand (100,000) or more according to the most recent federal decennial census shall consist of five (5) members unless there is an expansion of the board to provide services outside the boundaries of the governmental unit from which it obtains power.

(2)(A)(i) The initial members shall be appointed by the mayor of the creating municipality or the county judge of the creating county, subject to confirmation by the governing body of the municipality or county for terms as determined by the governing body of the municipality or county.

(ii) The terms shall be set in a manner that results in the expiration of terms on a staggered basis.

(B)(i)*(a)* Successor members shall be appointed by the mayor of the creating municipality or the county judge of the creating county subject to confirmation by the governing body of the municipality or county for terms as determined by the governing body of the municipality or county.

(b) The terms shall be set in a manner that results in the expiration of terms on a staggered basis.

(ii) In a municipality located in a metropolitan statistical area designated by the United States Bureau of the Census having a population of one million (1,000,000) or more persons according to the most recent federal decennial census, successor members shall be appointed by a majority of the board.

(C) Each member shall serve until his or her successor is elected and qualified.

(D) A member is eligible to succeed himself or herself.

(E)(i) The governing body of the municipality or county may limit by ordinance the number of terms a person may serve on the board.

(ii) Subdivision (b)(2)(E)(i) of this section shall not apply to a municipality located in a metropolitan statistical area designated by the United States Bureau of the Census having a population of one million (1,000,000) or more persons according to the most recent federal decennial census.

(F) Members of public facilities boards established by municipalities who have special expertise as designated by the governing body of the municipality:

(i) Are not required to be residents of the municipality that established the public facilities board but shall be residents of the county in which the municipality is located; and

(ii) May be exempted by the governing body of the municipality from the term limits for board members, if any, set out in the ordinance establishing the public facilities board.

(3) Each member shall qualify by taking and filing with the clerk of the municipality or county creating the board his or her oath of office in which he or she shall swear to support the United States Constitution and the Arkansas Constitution and to discharge faithfully his or her duties in the manner provided by law.

(4) In the event of a vacancy in the membership of the board, however caused, a majority of the board shall elect a successor member to serve the unexpired term.

(5) The members of the board shall not receive compensation for their services, but are entitled to reimbursement for reasonable and necessary expenses incurred in the performance of their duties.

(6) Any member of the board may be removed for misfeasance, malfeasance, or willful neglect of duty, by the mayor of the municipality or the county judge of the county, as the case may be, which created the board after reasonable notice of and an opportunity to be heard concerning the alleged grounds for removal.

(7)(A)(i) If the jurisdiction of a board, under interlocal agreements, expands to provide services outside the boundaries of the governmental unit from which it obtains power, then not more than two (2) additional members per governmental unit may be added under the terms of any relevant interlocal agreement.

(ii) These members shall be appointed initially by the mayor of the newly participating municipality or the county judge of the newly participating county and shall serve for a term agreed upon in the interlocal agreement, provided that the term shall not exceed five (5) years.

(B) This section shall apply to these additional members if no additional member is eligible to serve as chair of the board.

(c) While a member is on the board, the member shall not hold a position on the governing body of the municipality or county that created the board.

History. Acts 1975, No. 142, § 6; 1985, No. 937, §§ 1, 2; A.S.A. 1947, §§ 20-1706, 20-1706.1; Acts 1987, No. 407, § 1; 1987, No. 929, § 2; 1992 (1st Ex. Sess.), No. 26, §§ 2, 3; 1992 (1st Ex. Sess.), No. 34, §§ 2, 3; 1999, No. 782, § 1; 2003, No. 544, § 1; 2005, No. 1276, § 1; 2009, No. 407, § 1; 2021, No. 943, § 1.

Amendments. The 2021 amendment added (c).

CASE NOTES

Cited: Sanders v. Bradley County Human Servs. Pub. Facilities Bd., 330 Ark. 675, 956 S.W.2d 187 (1997).

14-137-111. Powers generally — Bidding and appraisal requirements.

(a) Each public facilities board is authorized and empowered:

(1) To have perpetual succession as a body politic and corporate and to adopt bylaws for the regulation of its affairs and the conduct of its business;

(2) To adopt an official seal and alter it at pleasure;

(3) To maintain an office at such place in the municipality or county creating the board as it may designate;

(4) To sue and be sued in its own name;

(5) To fix, charge, and collect rents, fees, and charges for the use of any public facilities project;

(6) To employ and pay compensation to such employees and agents, including attorneys, consulting engineers, architects, surveyors, accountants, financial experts, and such other employees and agents as may be necessary in its judgment, and to fix their compensation;

(7) To accomplish public facilities projects as authorized by this chapter and the ordinance creating the board;

(8) To do any and all other acts and things in this chapter authorized or required to be done, whether or not included in the powers mentioned in this section;

(9) To lend money, directly or indirectly, for the financing of the construction, acquisition, and equipment of all or a portion of a public facilities project;

(10) To invest money, including a major portion of the proceeds of any issue of bonds for the term of the bonds or a shorter period, in consideration of a contract to make payment or payments to provide for the payment of the principal, premium, if any, and interest on the bonds when due;

(11) In the acquisition, construction, and equipment of, and in the operation of, hydroelectric power projects:

(A) To contract with any regulated public utility for the supplying of electrical energy produced by any such project, upon terms acceptable to the board; and

(B) To apply to the appropriate agencies of the state, the United States, or any state thereof, and to any other proper agency for such licenses, permits, certificates, or approvals as may be necessary, and to obtain, hold, and use the licenses, permits, certificates, and approvals. However, nothing contained in this subdivision (a)(11)(B) shall be construed to require a board to obtain any license, certificate, permit, or approval from the Arkansas Public Service Commission; and

(12) To do any and all other things necessary or convenient to accomplish the purposes of this chapter.

(b)(1) When purchasing or selling real or personal property, each public facilities board shall be subject to the bidding and appraisal requirements that apply to the county or city which created the board, except as allowed under subdivision (b)(2) of this section.

(2) A public facilities board may sell or transfer a waterworks facilities to, or purchase or otherwise acquire waterworks facilities from, a public body created under the Consolidated Waterworks Authorization Act, § 25-20-301 et seq., without application of the bidding and appraisal requirements of subdivision (b)(1) of this section.

(c) With regard to public facilities boards that own, operate, or administer jail facilities, the public facilities boards shall additionally possess the power and authority:

(1) To exercise those powers granted to jail boards pursuant to § 12-41-701 et seq.;

(2) To enter into contracts with any state agency, state or governmental body or political subdivision, public or private corporation, agencies or instrumentalities of the United States Government, or other governmental body or political subdivision, public or private corporation, or other legal entity, or any individual, or a combination of any of these entities and individuals, to provide for the design, financing, construction, expansion, operation, and maintenance of all or any portion of a jail facility or for any combination of such services or functions;

(3) To enter into long-term or short-term contracts with counties, municipalities, public entities, the State of Arkansas, agencies or instrumentalities of the United States Government, and other public entities under which the public facilities board shall provide nightly or other periodic housing of these entities' misdemeanants or other incarcerants for fee compensation or other consideration;

(4) To offer incarcerants the option to participate in community service programs and all other forms of voluntary labor;

(5) To enter into contracts with third-party governmental entities under which the board may receive compensation for supplying to these entities the voluntary services and labor of the board's incarcerants;

(6) To enter into jail management contracts with third-party governmental or private organizations upon terms and conditions that the board determines appropriate;

(7) To pledge contract revenue receivables realized through the execution of contracts with third parties for housing for incarcerants;

(8) To pledge contract revenue receivables realized through the execution of contracts with third parties for the labor of incarcerants or services rendered; and

(9) To pledge all other revenues and income of every nature that the board may realize through its operations that are otherwise expressly pledged and identified in the trust indenture that the board may execute in connection with the issuance of its debt.

History. Acts 1975, No. 142, § 7; 1977, No. 446, § 3; 1981 (1st Ex. Sess.), No. 18, § 4; A.S.A. 1947, § 20-1707; Acts 1987, No. 47, § 1; 1991, No. 506, § 1; 2003, No. 549, § 1; 2003, No. 1772, § 3.

Cross References. Repayment of debt issued by jail board or similar public facility, § 12-41-719.

CASE NOTES

Cited: Sanders v. Bradley County Human Servs. Pub. Facilities Bd., 330 Ark. 675, 956 S.W.2d 187 (1997).

14-137-113. Postsecondary education or occupational training facilities.

CASE NOTES

Bonds.

City of Searcy, Arkansas, did not violate the First Amendment to the U.S. Constitution, Ark. Const., Amend. 65, or Ark. Const., Art. 12, § 5 when it created a housing facilities board under the Arkansas Public Facilities Board Act (PFBA), § 14-137-101 et seq., and issued bonds so a university that was associated with the Churches of Christ could fund building projects. The PFBA allowed the housing facilities board to issue bonds to finance projects that had a public purpose, education was a public purpose, and neither the city nor the board acted with the purpose of advancing or inhibiting religion. Gillam v. Harding Univ., No. 4:08-CV-00363-BSM, 2009 U.S. Dist. LEXIS 53609 (E.D. Ark. June 24, 2009).

14-137-115. Use of funds and revenue — Bonds.

CASE NOTES

Illustrative Cases.

City of Searcy, Arkansas, did not violate the First Amendment to the U.S. Constitution, Ark. Const., Amend. 65, or Ark. Const., Art. 12, § 5 when it created a housing facilities board under the Arkansas Public Facilities Board Act (PFBA), § 14-137-101 et seq., and issued bonds so a university that was associated with the Churches of Christ could fund building projects. The PFBA allowed the housing facilities board to issue bonds to finance projects that had a public purpose, education was a public purpose, and neither the city nor the board acted with the purpose of advancing or inhibiting religion. Gillam v. Harding Univ., No. 4:08-CV-00363-BSM, 2009 U.S. Dist. LEXIS 53609 (E.D. Ark. June 24, 2009).

14-137-120. Obligations on bonds.

CASE NOTES

Cited: Sanders v. Bradley County Human Servs. Pub. Facilities Bd., 330 Ark. 675, 956 S.W.2d 187 (1997).

CHAPTER 138

PUBLIC CORPORATIONS FOR MUNICIPAL FACILITIES

14-138-102. Definitions.

As used in this chapter:

(1) "Board" means the board of directors of the corporation;

(2) "Corporation" means a corporation organized under this chapter;

(3) "County" means that county in which the certificate of incorporation of the corporation shall be filed for record;

(4) "Governing body" means the council, board of directors, or other like body in which the legislative functions of the municipality are vested by law;

(5) "Indenture" means a mortgage, an indenture of mortgage, deed of trust, trust agreement, or trust indenture executed by the corporation as security for any bonds;

(6)(A) "Lessee" means the municipality, the county, or other public body leasing a project from the corporation.

(B) "Other public body" as used in this subdivision (6) means any department, agency, subdivision, or instrumentality of the State of Arkansas or the United States, or of any city, county, or school district, a vocational-technical school, or a community junior college district;

(7) "Municipality" means that incorporated town, city of the second class, or city of the first class in the state that authorized the organization of the corporation; and

(8)(A) "Project" means equipment to be utilized within or near or one (1) or more buildings located or to be located within or near the municipality and designed for use or occupancy by a lessee, as defined in this section, for any one (1) of the following public purposes:

(i) Convention centers;

(ii) Airport facilities;

(iii) Transportation facilities;

(iv) Off-street parking facilities;

(v) Schools of any and all kinds supported by public funds including, but not limited to, day care, kindergarten, elementary, junior high, senior high, junior college, college, community college, graduate college, vocational-technical schools, and school administration facilities;

(vi) City halls, including administrative offices, police, courts, and jail facilities;

(vii) Fire stations and substations and sewage, garbage, and solid waste disposal facilities and a system for the management of fire stations and substations and sewage, garbage, and solid waste disposal facilities;

(viii) Courthouses and related administrative facilities including, but not limited to, courts and jail facilities;

(ix) Recreational facilities and community centers including, but not limited to, handicrafts, public gymnasiums and related facilities, swimming pools, meeting rooms, and dining facilities;

(x) Office space for state and federal agencies;

(xi) Both school and public stadiums;

(xii) Offices and administrative facilities including garages and necessary parking facilities for agencies of cities, counties, or other public bodies;

(xiii) Libraries and branch libraries;

(xiv) Hospitals and other medical facilities, and nursing homes and similar facilities;

(xv) Garages including parking garages and storage buildings; and

(xvi) Any combination of subdivisions (8)(A)(i)-(xv) of this section or any type of facilities customarily constructed by the public for public use and benefit.

(B) The projects listed in subdivision (8)(A) of this section may include any lands or interest therein, deemed by the board to be desirable in connection therewith, and necessary equipment for the proper functioning and operation of the buildings or facilities involved.

History. Acts 1967, No. 409, § 1; 1968 (1st Ex. Sess.), No. 28, § 1; 1970 (1st Ex. Sess.), No. 41, §§ 1, 2; A.S.A. 1947, § 19-5101; Acts 2009, No. 529, §§ 1, 2; 2019, No. 383, § 16.

Amendments. The 2019 amendment deleted "unless the context otherwise requires" following "chapter" in the introductory language; deleted former (3) and (6) and redesignated the definitions in alphabetical order; substituted "under" for "pursuant to the provisions of" in (2); substituted "(6) means" for "shall mean" in (6)(B); substituted "that authorized" for "which authorized" in (7); redesignated former (9)(A)(vii)*(a)* and *(b)* as (8)(A)(vii); substituted "fire stations and substations and sewage, garbage, and solid waste disposal facilities" for "a project described in subdivision (9)(A)(vii)*(a)* of this section" in (8)(A)(vii); substituted "subdivisions (8)(A)(i)-(xv) of this section" for "the above" in (8)(A)(xvi); and, in (8)(B), deleted "above" preceding "projects", and inserted "listed in subdivision (8)(A) of this section"; and made stylistic changes.

14-138-105. Authority and procedure to incorporate.

(a)(1)(A) If three (3) or more qualified electors file with the governing body an application in writing for authority to incorporate a public corporation under this chapter, the governing body may adopt a resolution declaring that it is wise, expedient, and necessary that a public corporation be formed and the persons filing the application may proceed to form the public corporation.

(B) After the adoption of the resolution under subdivision (a)(1)(A) of this section, the persons authorized to become the incorporators of the public corporation may incorporate the public corporation in the manner provided in this chapter.

(2)(A) If approved by an ordinance of the governing body of the municipality, the board of directors of a planning and development district created under § 14-166-201 et seq. may file with the governing body of the municipality an application in writing to be designated and to act as a public corporation for one (1) or more projects.

(B)(i) If the application under subdivision (a)(2)(A) of this section is approved by an ordinance of the governing body of the municipality, the district authorized to act as a public corporation under subdivision (a)(2)(A) of this section shall maintain detailed records of its activities, including without limitation financial records.

(ii) A district that is authorized to act as a public corporation under subdivision (a)(2)(B)(i) of this section may also be designated as a public corporation by another municipality for a separate project or a

joint project if the designation is approved by an ordinance of the governing body of each municipality.

(iii) Sections 14-38-105 — 14-38-109 and 14-138-123 do not apply to a district that is authorized to act as a public corporation under subdivisions (a)(2)(B)(i) and (ii) of this section.

(b)(1) A corporation shall not be designated or formed under this chapter unless the:

(A) Application provided for in this section has been made; and

(B) Resolution provided for in this section has been adopted.

(2) Regardless of whether or not the project or facility being financed qualifies as a project under § 14-138-102(8)(A), a municipality may designate a district or a newly formed public corporation to act for it as a municipality under the Municipalities and Counties Industrial Development Revenue Bond Law, § 14-164-201 et seq., or with respect to Arkansas Constitution, Amendment 62, or Arkansas Constitution, Amendment 65.

History. Acts 1967, No. 409, § 3; A.S.A. 1947, § 19-5103; Acts 2007, No. 827, § 130; 2009, No. 529, § 3.

14-138-123. Dissolution.

(a)(1)(A) If the public corporation does not have any bonds outstanding, the board may adopt a resolution, which shall be entered in its minutes, declaring that the public corporation shall be dissolved; or

(B) If directed by its governing body, the board shall adopt a resolution to dissolve the public corporation.

(2) Upon the filing for record of a certified copy of a resolution made under subdivision (a)(1) of this section in the office of the county clerk of the county in which the municipality is located, the public corporation is dissolved.

(3) After its dissolution, the title to the property of a dissolved public corporation vests in the lessee.

(b) When the principal of and the interest on all bonds payable, in whole or in part, from the revenues derived from any project shall have been paid in full, title to that project shall thereupon vest in the lessee, but such vesting of title in the lessee shall not affect the title of the corporation to any other project, the revenues from which are pledged for the payment of any other bonds then outstanding.

(c) The formation and dissolution of one (1) or more corporations under the provisions of this chapter shall not prevent the subsequent formation under this chapter of other corporations in the same municipality.

(d) By giving a written notice to the district's board, the governing body of a municipality may rescind a planning and development district's designation and authority to act as a public corporation for a municipal facility under § 14-138-105(a)(2)(B) when the district does not have any bonds outstanding.

History. Acts 1967, No. 409 § 21; A.S.A. 1947, § 19-5121; Acts 2009, No. 529, §§ 4, 5.

CHAPTER 140

PUBLIC MARKETPLACES IN CITIES AND TOWNS

SUBCHAPTER.
1. General Provisions.

Subchapter 1 — General Provisions

14-140-101. Maintenance and regulation of markets.

(a) The governing body may erect, establish, and regulate the markets and marketplaces for the sale of vegetables and other articles necessary for the sustenance, convenience, and comfort of the city and the inhabitants thereof.

(b) The governing body shall have power to prescribe:

(1) The times of opening and closing the markets or marketplaces;

(2) The kind and description of articles that may be sold therein; and

(3) The stands or places to be occupied by the vendors.

(c) The governing body may have full power to:

(1) Prevent forestalling;

(2) Prohibit or regulate huckstering in the markets; and

(3) Adopt such rules and regulations as are necessary to prevent fraud, to preserve order in the market, and to ensure the health and safety of the citizens.

(d)(1) The governing body may authorize the immediate seizure, arrest, or removal from any market of any person violating its regulations, as established by ordinance, together with any article in that person's possession, and the immediate seizure and destruction of tainted or unsound meat, seafood, poultry, vegetable, fruit, or other provisions.

(2) Under § 20-57-101 et seq., the Department of Health is the entity authorized to regulate food safety.

(e) A charge or an assessment, other than those essential for operations and maintenance, shall not be made or levied against any farmer or producer that is selling items grown or produced on the farmer's or producer's land or property.

History. Acts 1875, No. 1, § 6, p. 1; C. & M. Dig., §§ 7596, 7606; Pope's Dig., §§ 9682, 9701; A.S.A. 1947, § 19-3301; Acts 2011, No. 568, § 1.

14-140-102. [Repealed.]

Publisher's Notes. This section, concerning hindering or taxing sale of farm products unlawful, was repealed by Acts 2011, No. 568, § 2. The section was derived from Acts 1911, No. 372, §§ 1, 2; C. & M. Dig., § 7533; Pope's Dig., § 9602; A.S.A. 1947, §§ 19-3302, 19-3303.

CHAPTER 142

LOCAL GOVERNMENT LIBRARY BONDS

SUBCHAPTER.

Subchapter 2 — Local Government Library Bond Act

SECTION.

Effective Dates. Acts 2009, No. 1480, § 117: Apr. 10, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act makes various revisions to Arkansas election laws that are designed to improve the administration of elections and special elections and that these revisions should be implemented as soon as possible so that the citizens of this state may benefit from improved election procedures. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

14-142-208. Bonds generally — Election to authorize issuance.

(a) The question of the issuance of such bonds shall be submitted to the electors of the municipality or county at the general election or at a special election called for that purpose in accordance with § 7-11-201 et seq., as provided in the ordinance or order and held in the manner provided in this subchapter; provided, however, that no voter residing within a municipality levying a maintenance tax for libraries or levying a tax pledged for the purpose of retiring library bonds issued by the municipality or pledged to pay for capital improvements to or construction of a public library pursuant to Arkansas Constitution, Amendment 30, and Arkansas Constitution, Amendment 72, shall be entitled to vote on the question of the issuance of bonds by the county within which the municipality is located as authorized pursuant to Arkansas Constitution, Amendment 38, and Arkansas Constitution, Amendment 72, and this section.

(b)(1) Except as otherwise provided in this subchapter, the election shall be held and conducted in the same manner as a special or general election under the election laws of the state.

(2) The ordinance or order shall set forth the form of the ballot question or questions in the form prescribed by Arkansas Constitution, Amendment 30, or Arkansas Constitution, Amendment 38, as amended by Arkansas Constitution, Amendment 72.

(3) Notice of the election shall be given by the clerk of the issuer by one (1) publication in a newspaper having general circulation within the municipality or county not less than ten (10) days prior to the election. No other publication or posting of a notice by any other public official shall be required.

(c) The chief executive officer of the municipality or county shall proclaim the results of the election by issuing a proclamation and publishing it one (1) time in a newspaper having general circulation within the municipality or county.

(d)(1) The results of the election as stated in the proclamation shall be conclusive unless suit is filed in the circuit court in the county in which the issuer is located within thirty (30) days after the date of the publication.

(2) No other action shall be maintained to challenge the validity of the bonds and of the proceedings authorizing the issuance of the bonds unless suit is filed in such circuit court within thirty (30) days after the date of adoption of an ordinance or entry of the order authorizing the sale of the bonds.

History. Acts 1993, No. 920, § 9; 1995, No. 545, § 1; 2005, No. 2145, § 45; 2007, No. 1049, § 66; 2009, No. 1480, § 85.

CHAPTER 143

REGIONAL INTERMODAL FACILITIES ACT

Cross References. Disposal of railroad track material, § 15-11-211.

14-143-102. Definitions.

As used in this chapter:

(1) "Authority" means any authority created under the provisions of this chapter;

(2) "Basic local exchange service" means the service provided to the premises of residential or business customers composed of the following:

(A) Voice grade access to the public switched network, with ability to replace and receive calls;

(B) Touch tone service availability;

(C) Flat rate residential local service and business local service;

(D) Access to emergency services (911/E911) where provided by local authorities;

(E) Access to basic operator services;

(F) A standard white page directory listing;

(G) Access to basic local directory assistance;

(H) Access to long distance toll service providers; and

(I) The minimum service quality as established and required by the Arkansas Public Service Commission on February 4, 1997;

(3) "Construct" means to acquire or build, in whole or in part, in the manner and by the method, including contracting therefor, and if the latter, by negotiation or bids upon the terms and pursuant to the advertising, as the authority shall determine to be in the public interest and necessary under the circumstances existing at the time to accomplish the purposes of and authorities set forth in this chapter;

(4) "County" means any county in this state;

(5) "Equip" means to install or place on or in any building or structure, equipment of any and every kind, whether or not affixed, including, without limiting the generality of the foregoing, building service equipment, fixtures, heating equipment, air conditioning equipment, machinery, furniture, furnishings, and personal property of every kind;

(6) "Facilities" or "property" or "properties" means any real property, personal property, or mixed property of any and every kind that can be used, or that will be useful, to accomplish the purposes of, and powers set forth in, this chapter including, without limiting the generality of the foregoing, rights-of-way, roads, streets, utilities, materials, equipment, fixtures, machinery, furnishings, furniture, instrumentalities, and other real, personal, or mixed property of every kind;

(7) "Governing body" means the council, board of directors, or city commission of any municipality or the county court of any county;

(8) "Intermodal" means one (1) or more modes of interconnected movement of freight, commerce, or passengers;

(9) "Lease" means to lease for such rentals, for such period or periods, and upon such terms and conditions as the authority shall determine, including, without limiting the generality of the foregoing, the granting of such renewal or extension options for such rentals, for such periods, and upon such terms and conditions as the authority shall determine and the granting of such purchase options for such prices and upon such terms and conditions as the authority shall determine;

(10) "Mode" means railway, highway, air, pipeline, waterway, transit, and communication systems and related means of movement of freight, commerce, or passengers;

(11) "Municipality" or "municipal corporation" means a city of the first class, a city of the second class, or an incorporated town;

(12) "Person" means any natural person, partnership, corporation, association, organization, business trust, and public or private person or entity;

(13) "Sell" means to sell for such price, in such manner, and upon such terms as the authority shall determine, including, without limiting the generality of the foregoing, private or public sale, and if public, pursuant to such advertising as the authority shall determine, sale for cash or credit payable in lump sum, or in installments over such period as the authority shall determine, and if on credit, with or without interest and at such rate or rates as the authority shall determine; and

(14) "State" means the State of Arkansas.

History. Acts 1997, No. 690, § 2; 2003, No. 1158, § 1.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of Legislation, 2003 Arkansas General Assembly, Local Government, Definition of Intermodal, 26 U. Ark. Little Rock L. Rev. 434.

14-143-109. Powers of authority generally.

(a) Each authority is given power and authority as follows:

(1) To make and adopt all necessary bylaws, rules, and regulations for its organization and operations not inconsistent with law;

(2) To elect its own officers, to appoint committees, and to employ and fix the compensation for personnel necessary for its operation;

(3) To enter into contracts with any person, governmental department, firm, or corporation, including both public and private corporations, and generally to do any and all things necessary or convenient for the purpose of acquiring, equipping, constructing, maintaining, improving, extending, financing, and operating an intermodal facility including, without limitation, railway-highway terminals, highway-railway terminals, shipping facilities, railroad sidings, turnouts, spur branches, switches, yards tracks, bridges and trestles, parks for industrial facilities, buildings, warehouses, utilities, highways, roads, streets, roadways and approaches, bulk loading and unloading facilities, elevators, tipples, compresses, refrigeration storage plants, transfer equipment, and related improvements and facilities as it may deem feasible for the expeditious and efficient handling of freight, commerce, and passengers to and from any other part of the state or any other state and foreign countries to best serve the region in which it is located;

(4) To assume the rights and responsibilities of the municipality with respect to all existing and future permits and franchises with public utilities for the supplying of public utility service to be intermodal facility;

(5) To delegate any authority given to it by law to any of its officers, committees, agents, or employees;

(6) To apply for, receive, and use grants-in-aid, donations, and contributions from any source, including, but not limited to, the United States Government, or any agency thereof, and the State of Arkansas, or any agency thereof, and to accept and use bequests, devises, gifts, and donations from any person, firm, or corporation;

(7) To acquire lands and hold title thereto in its own name;

(8) To acquire, own, hold, lease as lessor or as lessee, sell, encumber, dispose of, or otherwise deal in and with any facilities or real, personal, or mixed property, wherever located;

(9) To borrow money and execute and deliver negotiable notes, mortgage bonds, other bonds, debentures, and other evidences of indebtedness therefor, and give such security therefor as shall be requisite, including giving a mortgage or deed of trust on its properties and facilities in connection with the issuance of mortgage bonds;

(10) To raise funds by the issuance and sale of revenue bonds in the manner and according to the terms set forth in this chapter;

(11) To expend its funds in the execution of the powers and authorities given in this chapter and to invest and reinvest any of its funds pending need therefor;

(12) To apply for, receive, and use loans, grants, donations, technical assistance, and contributions from any agency of the United States Government or the State of Arkansas;

(13) To constitute the authority, or a committee thereof, as improvement district commissioners and to create and operate an improvement district, composed of the area encompassed within the jurisdictions of the participating governing bodies, upon the petition of persons claiming to be two-thirds (⅔) in value of the owners of real property in the area, as shown by the last county assessment. The improvement district shall be for the purpose of financing the construction, reconstruction, or repair of the regional intermodal facilities. The creation and operation of an improvement district shall, to the extent consistent with this chapter, be in accordance with the procedures established by the laws of this state for the creation and operation of municipal improvement districts;

(14) To enforce all rules, regulations, and statutes relating to its intermodal facilities;

(15) To plan, establish, develop, construct, enlarge, improve, maintain, equip, operate, and regulate its intermodal facilities and auxiliary services and facilities, and to establish minimum building codes and regulations and to protect and police the intermodal facilities and other facilities of the authority, in cooperation with the law enforcement agencies and officers having jurisdiction in the area where the facilities of the authority are located;

(16) To levy and collect a tax or fee, which tax or fee shall be levied upon and collected from the shippers, transporters, or other users loading or unloading freight, commerce or passengers at the terminal or

other facilities of the authority, and the authority is empowered to make reasonable classifications of such shippers, transporters, or users for this purpose;

(17) To receive real and personal property from the United States for intermodal facilities and related purposes, by donation, purchase, lease or otherwise, and subject to such conditions and requirements relating thereto as the United States may require and to which the authority may agree;

(18) To apply to the proper authorities of the United States pursuant to appropriate law for the right to establish, operate, and maintain foreign trade zones within the area of jurisdiction of the member municipalities or member counties, or both, and to establish, operate, and maintain such foreign trade zones;

(19) To promote, advertise, and publicize the authority and its facilities; provide information to shippers, transporters, users, operators and other commercial interests; and to represent and promote the interests of the authority; and

(20) To take such other action, not inconsistent with law, as may be necessary or desirable to carry out the powers and authorities conferred by this chapter and the intent and purposes of it.

(b) The enumeration of these powers shall not limit or circumscribe the broad objectives and purposes of this chapter and the broad objectives of developing to the utmost, intermodal facilities and necessary and desirable related facilities or properties, in order to stimulate commercial development.

(c) Nothing herein, however, authorizes this authority or any municipality, county, or state to provide, directly or indirectly, basic local exchange service.

History. Acts 1997, No. 690, § 9; 2021, No. 473, § 2.

Amendments. The 2021 amendment substituted "or member counties, or both" for "and/or counties" in (a)(18).

14-143-121. Exemption from taxation.

(a) Each authority shall be exempt from the payment of any taxes or fees to the state, or any subdivision thereof, or to any office or employee of the state, or of any subdivision thereof; however, each authority shall withhold and remit state income taxes as prescribed by the Arkansas Income Tax Withholding Act of 1965, § 26-51-901 et seq.

(b)(1) The property of each authority shall be exempt from all local and municipal taxes.

(2) Bonds, notes, debentures, and other evidences of indebtedness of the authority are declared to be issued for a public purpose and to be public instrumentalities and, together with interest thereon, shall be exempt from all state, county, and municipal taxes, including, but without limitation, income, inheritance and estate taxes.

(c) A lessee of an authority under § 14-143-126 is exempt from state, county, and municipal sales and use taxes on purchases of tangible personal property and services if:

(1) The lessee's facility is constructed after July 22, 2015, and has not been occupied by any other authority lessee;

(2) At an establishment within fifty (50) miles of the intermodal facility, the lessee has not ceased or substantially reduced operations of a nature similar to those being performed at the lessee's facility within the intermodal facility;

(3) The tangible personal property or service is consumed, used, or performed at the lessee's facility within the intermodal facility; and

(4) The lessee's facility is used to carry out the essential governmental functions of the authority under § 14-143-104(b).

History. Acts 1997, No. 690, § 21; 2015, No. 691, § 1.

14-143-130. Funding for regional intermodal facilities.

(a) The Arkansas Department of Transportation shall distribute the first five hundred twenty-five thousand dollars ($525,000) of interest income received under § 27-70-204 each year from the State Highway and Transportation Department Fund. The moneys shall be:

(1) Equally distributed to each authority;

(2) Deposited into a bank as the authority may direct under § 14-143-124(a)(1); and

(3) Used for the purposes and the implementation of the powers authorized under this chapter.

(b) Moneys remaining in the bank designated by the authority under subdivision (a)(2) of this section shall carry forward and be made available for the purposes stated in subdivision (a)(3) of this section in the next fiscal year.

History. Acts 2017, No. 705, § 1.

CHAPTER 144

RESEARCH PARK AUTHORITY ACT

SUBCHAPTER.

1. Intent and Definitions.
2. Powers of Research Park Authority.
3. Finance.

Effective Dates. Acts 2007, No. 1045, § 8: Apr. 4, 2007. Emergency clause provided: "It is found and determined by General Assembly of the State of Arkansas that the development of products and services derived from research activities involving Arkansas institutions of higher education and businesses and entrepreneurs involved in these research activities form the basis for much needed economic development that capitalizes on knowledge acquired through research; that the

resulting intellectual property that is the foundation for business development presents opportunities for the State of Arkansas to compete effectively in the changing global economy; that the opportunities available for the growth of knowledge-based businesses are dependent upon the State of Arkansas creating an environment that allows these new businesses to grow and succeed in Arkansas; and that this act is immediately necessary to develop and retain these knowledge-based businesses in the State of Arkansas. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Subchapter 1 — Intent and Definitions

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

14-144-101. Title.

This chapter may be cited as the "Research Park Authority Act".

History. Acts 2007, No. 1045, § 1.

14-144-102. Legislative intent.

(a)(1) It is the intent of the General Assembly to maximize the benefits to be derived from Arkansas's institutions of higher education. Therefore it is necessary to provide an environment conducive to the creation and retention of businesses that develop through Arkansas's colleges and universities.

(2) In many instances, these businesses are founded by entrepreneurs engaged in research, and it is imperative that research facilities

be made available in the State of Arkansas to encourage, house, and support these developing entrepreneurs and businesses.

(3) This chapter is intended to provide a mechanism by which appropriate research facilities may be developed, funded, and operated for the purpose of supporting and retaining Arkansas entrepreneurs and businesses dependent upon research for their further development.

(b) It is further intended that the research parks created under this chapter shall serve as a catalyst for community growth and transformation and as centers for community planning and improvement.

History. Acts 2007, No. 1045, § 1.

14-144-103. Definitions.

As used in this chapter:

(1) "Accredited institution of higher education" means a four-year public college or university that offers bachelor's degrees and is recognized by the Division of Higher Education for credit;

(2) "Construct" means to acquire or build, in whole or in part, in the manner and by the method, including contracting for the acquisition or building, and if the latter, by negotiation or bids upon the terms and pursuant to the advertising, as the research park authority shall determine to be in the public interest and necessary under the circumstances existing at the time to accomplish the purposes of and authorities under this chapter;

(3) "County" means any county in this state;

(4)(A) "Development" means the translation of research findings or other knowledge into a plan or design for a new product or process or for a significant improvement to an existing product or process whether intended for sale or use.

(B) "Development" includes the conceptual formulation, design, and testing of all forms of software content, product alternatives, construction of prototypes, and operation of pilot plants;

(5) "Equip" means to install or place on or in any building or structure, equipment of any and every kind, whether or not affixed, including without limitation:

(A) Air conditioning equipment;

(B) Building service equipment;

(C) Fixtures;

(D) Furnishings;

(E) Furniture;

(F) Heating equipment;

(G) Machinery; and

(H) Personal property of every kind;

(6) "Facilities" means any real property, personal property, or mixed property of any kind that can be used or that will be useful to accomplish the purposes of this chapter, including without limitation:

(A) Equipment;

(B) Fixtures;

(C) Furnishings;
(D) Furniture;
(E) Instrumentalities;
(F) Machinery;
(G) Materials;
(H) Rights-of-way;
(I) Roads and streets;
(J) Utilities; and
(K) Other real, personal, or mixed property;

(7) "Governing body" means:
(A) For a municipality, the city council or board of directors;
(B) For a county, the quorum court;
(C) For an institution of higher education, the board of trustees;
(D) For a state agency, the Governor; and
(E) For a research institute or center, the board of directors of the 501(c)(3) entity or 501(c)(6) entity;

(8) "Lease" means to lease for rental, for periods, and upon terms and conditions the research park authority shall determine, including without limitation:
(A) The granting of renewal or extension options upon terms and conditions the authority shall determine; and
(B) The granting of purchase options at prices and upon terms the authority shall determine;

(9) "Municipality" means a city of the first class, a city of the second class, or an incorporated town;

(10) "Person" means any natural person, partnership, corporation, association, limited liability company, organization, business trust, foundation, trust, and public or private person;

(11) "Research" means planned research or critical investigation aimed at the discovery of new knowledge to create a new product or service or a new process or technique or to bring about a significant improvement in an existing product or process;

(12) "Research institute or center" means a nonprofit or government-owned or -operated organization that has a presence in Arkansas and is involved with performing research for processes, products, techniques, or services;

(13) "Research park" means an area of a municipality or county with defined boundaries that is the site of one (1) or more buildings housing persons that are engaged in research and development projects under this chapter;

(14) "Research park authority" means a public entity created under this chapter to provide facilities and support for businesses engaged in research and development in pursuit of economic development opportunities;

(15)(A) "Sell" means to sell for a price, in a manner, and upon terms the authority determines, including without limitation private or public sale.

(B)(i) If the sale is public, the authority shall advertise the sale and shall determine whether the sale shall be for cash or credit

payable in lump sum or in installments over a period the authority shall determine.

(ii) If the sale is for credit, the authority shall determine whether the credit shall be with or without interest and at what rate; and

(16) "State" means the State of Arkansas.

History. Acts 2007, No. 1045, § 1; 2009, No. 163, § 1; 2011, No. 628, § 1; 2019, No. 910, § 2238.

Amendments. The 2019 amendment substituted "Division of Higher Education" for "Department of Higher Education" in (1).

14-144-104. Construction.

(a) This chapter shall be liberally construed to accomplish its intent and purposes and shall be the sole authority required for the accomplishment of its purpose.

(b) To this end:

(1) It shall not be necessary to comply with the general provisions of other laws dealing with public facilities and their acquisition, construction, leasing, encumbering, or disposition, except to the extent provided for in § 14-206-101 et seq., § 14-207-101 et seq., and § 18-15-501 et seq.; and

(2) Section 15-5-303 shall not apply.

History. Acts 2007, No. 1045, § 1.

Subchapter 2 — Powers of Research Park Authority

14-144-201. Research park authority — Creation.

(a)(1) A research park authority:

(A) Shall have as sponsor at least one (1) accredited institution of higher education; and

(B) May have one (1) or more:

(i) Municipality;

(ii) County;

(iii) State agency; or

(iv) Research institute or center.

(2) One (1) or more sponsors who meet the requirements of subdivision (a)(1) of this section may create a research park authority under this chapter for the purpose of acquiring, constructing, maintaining, and operating a research park.

(b) A county or municipality shall not participate in a research park authority unless the governing body of the county or municipality:

(1) Provides by ordinance to participate in the research park authority; and

(2) Enters into an agreement with at least one (1) accredited institution of higher education to create and maintain the research park authority.

(c) An accredited institution of higher education shall not participate in a research park authority unless the governing body of the accredited institution of higher education adopts a resolution to participate in the research park authority.

(d) A research park shall be located either within:

(1) The geographical boundaries of a county or municipality that is a sponsor of the research park authority; or

(2) The main campus or in the proximity of the main campus of the sponsoring accredited institution of higher education that is a sponsor of the research park authority.

(e)(1) A sponsor of a research park authority shall enter into an agreement establishing the terms and conditions for the operation of the authority under this chapter and any other laws of the State of Arkansas that may be applicable.

(2) To the extent that it is consistent with this chapter, the agreement shall specify the information provided for in the Interlocal Cooperation Act, § 25-20-101 et seq.

(3) The agreement may also provide for each authority to furnish the participating sponsor or sponsors copies of its annual budget for examination and approval.

(4) The agreement shall be filed with the Secretary of State.

(f) By action of the research park authority board, a research park authority established under this chapter may add one (1) or more sponsors to the creating sponsors under subdivision (a)(1)(B) of this section.

History. Acts 2007, No. 1045, § 1; 2011, No. 628, § 2.

14-144-202. Public corporation.

(a) Upon creation of a research park authority:

(1) The authority and its members shall:

(A) Constitute a public corporation; and

(B) Have perpetual succession; and

(2) The authority and its members may:

(A) Contract and be contracted with;

(B) Sue and be sued; and

(C) Have and use a common seal.

(b) The exercise of the powers and performance of the duties under this chapter by each authority are declared to be public and governmental functions that are exercised for a public purpose and for matters

of public necessity and that confer upon each authority governmental immunity from suit in tort.

History. Acts 2007, No. 1045, § 1.

14-144-203. Research park authority board.

(a) Subject to any limitations created in the agreement required under § 14-144-201(c), the management and control of each research park authority and its property, operations, business, and affairs shall be lodged in a research park authority board of not less than five (5) nor more than seven (7) natural persons who shall be appointed for terms of five (5) years each.

(b)(1) The number of members of the board to which each of the participating governmental bodies is entitled shall be set forth in the agreement required under § 14-144-201(c).

(2) However, each of the participating governmental bodies shall be entitled to appoint at least one (1) member.

(3) Appointments of members shall be made:

(A) For a municipality, by the mayor;

(B) For a county, by the county judge;

(C) For an accredited institution of higher education, by the president or chancellor of the accredited institution of higher education; and

(D) For a state agency, by the Governor.

(c)(1) The members shall serve staggered terms.

(2) Upon taking office, the members shall draw lots so that:

(A) One (1) member shall have a one-year term;

(B) One (1) member shall have a two-year term;

(C) One (1) member shall have a three-year term;

(D) One (1) member shall have a four-year term; and

(E) One (1) member shall have a five-year term.

(3) A sixth or seventh member shall serve a five-year term.

(4) After the expiration of their respective terms, persons reappointed to the board or their successors shall serve five-year terms.

(5) A person shall not serve as a member for more than a total of ten (10) consecutive years.

(d)(1) A member appointed by a mayor or county judge shall be a bona fide resident and qualified elector of the municipality or county of the appointing mayor or county judge.

(2) A member of the board appointed by the president or chancellor of the accredited institution of higher education shall be a bona fide resident and qualified elector of the institution's metropolitan statistical area or the county in which the main campus of the institution is located if the main campus is not the institution's metropolitan statistical area.

(3) A member appointed by the Governor shall be a bona fide resident and a qualified elector of the State of Arkansas.

(e) If a member dies, resigns, is removed, or for any other reason ceases to be a member of the board, the officer who appointed the

member shall appoint another eligible person to fill the unexpired portion of the term of the member.

(f) A member once qualified shall not be removed during his or her term except for cause by the mayor, county judge, president or chancellor of the accredited institution of higher education or Governor who appointed the member or upon such other conditions as may be set forth in the agreement required under § 14-144-201(c).

(g)(1) A member shall not receive any compensation whether in the form of salary, per diem allowance, or in another form for or in connection with his or her services as a member.

(2) However, each member shall be entitled to reimbursement by the board for any necessary expenditures in connection with the performance of his or her general duties as a member.

History. Acts 2007, No. 1045, § 1.

14-144-204. Powers of research park authority board.

(a) Each research park authority board is given the following powers:

(1) To make and adopt all necessary bylaws for its organization and operation;

(2) To elect officers and to employ personnel necessary for its operation;

(3) To delegate any authority given to it by law to any of its officers, committees, agents, or employees;

(4) To enter into contracts necessary or incidental to its powers and duties under this chapter;

(5) To apply for, receive, and spend grants for any purpose of this chapter;

(6) To acquire lands and hold title to the lands acquired in its own name;

(7) To acquire, own, use, and dispose of property in the exercise of its powers and the performance of its duties under this chapter;

(8) To borrow money and execute and deliver negotiable notes in the exercise of its powers and the performance of its duties under this chapter;

(9) To issue bonds;

(10) To acquire, equip, construct, maintain, and operate a research park and appurtenant facilities or properties;

(11) To acquire, equip, construct, maintain, and operate research and related types of facilities, including education, training, office and support facilities, located at or near a research park for the purpose of securing and developing new businesses with a research orientation;

(12) To request and receive from time to time, from counties or cities within the boundaries of the research park authority, funds to finance and support the authority, including county or city turnback funds as set forth in §§ 27-70-206 and 27-70-207 for the purpose of matching federal transportation funds;

(13) To receive property or funds by gift or donation for the finance and support of the authority;

(14)(A) Upon the petition of persons representing two-thirds (2/3) in value of the owners of real property in the area as shown by the last county assessment, to constitute the authority or a committee of the authority as an improvement district and to create and operate an improvement district composed of a specified area encompassed within the jurisdictions of the participating governing bodies.

(B)(i) The improvement district shall be for the purpose of financing the construction, reconstruction, or repair of the research park and its facilities.

(ii) To the extent consistent with this chapter, the creation and operation of an improvement district shall be in accordance with the procedures established by the laws of the State of Arkansas for the creation and operation of municipal improvement districts;

(15) To plan, establish, develop, construct, enlarge, improve, maintain, equip, operate, and regulate a research park and auxiliary services and facilities and to establish minimum building codes and regulations and to protect and police the research park and other facilities of the authority in cooperation with the law enforcement agencies and officers having jurisdiction in the area where the facilities of the authority are located;

(16) To levy and collect a tax or fee to be levied upon and collected from the tenants or occupants of the research park or from the property owners within the improvement district or redevelopment district;

(17) To receive real and personal property from the United States for research park facilities and related purposes by donation, purchase, lease, or otherwise and subject to any conditions the United States may require and to which the authority may agree;

(18) To promote, advertise, and publicize the authority and its facilities and to represent and promote the interests of the authority; and

(19) To do all things necessary or appropriate to carry out the powers and duties expressly granted or imposed under this chapter.

(b) A research park authority may engage in the following activities:

(1) Research;

(2) Development of products or services, including without limitation:

(A) Advanced materials and manufacturing systems;

(B) Advanced electronics or computer products, or both;

(C) Agriculture, aquaculture, and forestry technologies;

(D) Bio-based products;

(E) Biotechnology, bioengineering, and life sciences;

(F) Engineering technology;

(G) Food and environmental sciences;

(H) Information and related technology;

(I) Medical devices;

(J) Nanotechnology;

(K) Pharmaceutical products;

(L) Products for energy conservation;

(M) Products for testing or remediation of environmental hazards;

(N) Software, including creative and artistic content and data communications; and

(O) Transportation logistics;

(3) Production of materials and products ancillary to items listed under subdivisions (b)(1) and (2) of this section; and

(4) Acting as support or resource services and suppliers in connection with items listed under subdivisions (b)(1)-(3) of this section.

(c) Any additional activities undertaken by a research park authority shall be related to the commercialization of research and the furtherance of products and services derived from research and development activities.

(d) The enumeration of powers under this section does not limit or circumscribe the broad objectives and purposes of this chapter and the broad objectives of developing a research park and necessary and desirable related facilities or properties.

History. Acts 2007, No. 1045, § 1.

14-144-205. Eminent domain.

(a) A research park authority shall have the right to acquire any property necessary to carry out the purposes of this chapter by exercising the power of eminent domain.

(b) The research park authority, its agents, and its employees may seek a court order to enter upon real property and make surveys, examinations, photographs, tests, and samplings or to engage in other activities for the purpose of appraising the property or determining whether the real property is suitable for the authority's purpose.

History. Acts 2007, No. 1045, § 1.

14-144-206. Condemnation petition — Notice.

(a) A research park authority may exercise its power of eminent domain by filing an appropriate petition in condemnation in the circuit court of the county in which the property sought to be taken is situated to have the compensation determined, giving the owner of the property to be taken at least ten (10) days' notice in writing of the time and place where the petition will be heard.

(b)(1) If the property sought to be condemned is located in more than one (1) county, the petition may be filed in any circuit court having jurisdiction in any county in which any part of the property may be located.

(2) The proceedings had in the circuit court shall apply to all of the property described in the petition.

(c)(1)(A) If the owner of the property sought to be taken is a nonresident of the state, notice shall be by registered or certified

mail, return receipt requested, addressed to the last known address of the owner, and by publication in any newspaper in the county that is authorized by law to publish legal notices.

(B) This notice shall be published for the same length of time as may be required in other civil causes.

(2) If there is no such newspaper published in the county, then publication shall be made in a newspaper designated by the circuit clerk, and one (1) written or printed notice of the petition shall be posted on the door of the county courthouse.

(d)(1) The condemnation petition shall describe the lands and property sought.

(2) When the immediate possession of lands and property is sought to be obtained, the research park authority may file a declaration of taking under this chapter at any time before judgment or together with the condemnation petition.

History. Acts 2007, No. 1045, § 1.

14-144-207. Declaration of taking.

(a)(1) The petitioner may file a declaration of taking at any time before a judgment is signed by the chair of the research park authority board or with the condemnation petition in any proceeding instituted by and in the name of the research park authority that involves the acquisition of real property, an interest in the real property, or the easement.

(2) The declaration shall declare that the authority is taking the real property, an interest in the real property, or the easement for the use of the authority.

(b) The declaration of taking shall contain or have annexed to it the following:

(1) A statement that the authority is taking the real property, an interest in real property, or an easement;

(2) A statement of the purpose for which the authority is taking the real property, an interest in the real property, or the easement;

(3) A description of the real property, an interest in the real property, or the easement that the authority is taking sufficient for the identification of the real property, an interest in the real property, or the easement;

(4) A plat showing the real property, the interest in the real property, or the easement that the authority is taking; and

(5) A statement of the amount of money estimated by the acquiring authority to be just compensation for the taking of the real property, an interest in the real property, or the easement.

History. Acts 2007, No. 1045, § 1.

14-144-208. Condemnation proceedings and judgment.

(a) The circuit court shall impanel a jury of twelve (12) persons, as in other civil cases, to ascertain the amount of compensation that the research park authority shall pay for the real property, an interest in the real property, or an easement that the authority is taking.

(b) The matter shall proceed and be determined as in other civil cases.

(c) In all cases of infants or incompetent persons, when no legal representative or guardian appears in the infant's or incompetent person's behalf at the hearing, the court shall appoint a guardian ad litem who shall represent interests of the infant or incompetent person for all purposes.

(d) Compensation shall be ascertained and awarded in the proceeding and established by judgment in the proceeding.

History. Acts 2007, No. 1045, § 1.

14-144-209. Acquisition of property.

(a) Whenever it is deemed necessary by a research park authority in connection with the exercise of its powers conferred in this chapter to take or acquire any lands, structures, buildings, or other rights, either in fee or as easements, for the purposes set forth in this chapter, the authority may purchase them directly or through its agents from the owners thereof, or failing to agree with the owners, the authority may exercise the power of eminent domain in accordance with the procedures set forth in this chapter, and these purposes are declared to be public uses for which private property may be taken with just compensation.

(b) Should an authority elect to exercise the right of eminent domain, condemnation proceedings shall be maintained by and in the name of the authority, and it may proceed in the manner provided in this chapter and the general laws of the State of Arkansas not in conflict with this chapter that are applicable to the procedure by any county, municipality, accredited institution of higher education, or other authority organized under the laws of the State of Arkansas.

History. Acts 2007, No. 1045, § 1.

Subchapter 3 — Finance

14-144-301. Issuance of revenue bonds — Authorization.

(a) A research park authority may use any available revenues for the accomplishment of the purposes and the implementation of the powers authorized by this chapter, including the proceeds of revenue bonds issued from time to time under this chapter, either alone or together with other available funds and revenues.

(b) The amount of each issue of bonds may be sufficient to pay:

(1) The costs of accomplishing the purposes for which the bonds are being issued;

(2) The cost of issuing the bonds;

(3) The amount necessary for a reserve, if it is determined to be desirable in favorably marketing the bonds;

(4) The amount, if any, necessary to provide for debt service on the bonds until revenues for the payment of the bonds are available; and

(5) Any other costs and expenditures of whatever nature incidental to the accomplishment of the specified purposes.

History. Acts 2007, No. 1045, § 1.

14-144-302. Issuance of revenue bonds — Resolution of research park authority — Nature of bonds.

(a) The issuance of revenue bonds shall be by resolution of the research park authority.

(b) The bonds of each issue may:

(1) Be coupon bonds payable to bearer or may be registrable as to principal only or as to both principal and interest;

(2) Be in such form and denominations as may be appropriate and necessary;

(3) Be made payable at such places within or without the state as may be appropriate and necessary;

(4) Be issued in one (1) or more series;

(5) Have such date or dates as may be appropriate and necessary;

(6) Mature at such time or times as may be appropriate and necessary, not exceeding forty (40) years from their respective dates;

(7) Bear interest at such rate or rates;

(8) Be payable in such medium of payment as may be appropriate and necessary;

(9) Be subject to such terms of redemption as may be appropriate and necessary; and

(10) Contain such terms, covenants, and conditions as the resolution authorizing their issuance may provide, including without limitation those pertaining to:

(A) The custody and application of the proceeds of the bonds;

(B) The collection and disposition of revenues;

(C) The maintenance and investment of various funds and reserves;

(D) The imposition and maintenance of taxes, fees, rates, and charges for the use of the research park and other facilities of the authority;

(E) The nature and extent of the security;

(F) The rights, duties, and obligations of the authority and the trustee for the holders and registered owners of the bonds; and

(G) The rights of the holders and registered owners of the bonds.

(c)(1)(A) There may be successive bond issues for the purpose of financing the same project.

(B) There may also be successive bond issues for financing the cost of reconstructing, replacing, constructing additions to, extending, improving, and equipping projects already in existence, whether or not originally financed by bonds issued under this chapter, with each successive issue to be authorized as provided in this chapter.

(2) The priority between and among issues and successive issues as to security and the pledge of revenues and lien on and security interest in the land, buildings, and facilities involved may be controlled by the resolutions authorizing the issuance of bonds under this chapter.

(d) Subject to this section, the bonds shall have all the qualities of negotiable instruments under the laws of the State of Arkansas.

History. Acts 2007, No. 1045, § 1.

14-144-303. Issuance of revenue bonds — Indenture.

(a) The resolution authorizing the bonds may provide for the execution by the research park authority of an indenture that defines the rights of the holders and registered owners of the bonds and provides for the appointment of a trustee for the holders and registered owners of the bonds.

(b) The indenture may control the priority between successive issues and may contain any other terms, covenants, and conditions that are deemed desirable, including without limitation those pertaining to:

(1) The custody and application of the proceeds of the bonds;

(2) The collection and disposition of revenues;

(3) The maintenance of various funds and reserves;

(4) The imposition and maintenance of taxes, fees, rates, and charges for the use of the research park and other facilities of the authority;

(5) The nature and extent of the security;

(6) The rights, duties, and obligations of the authority and the trustee; and

(7) The rights of the holders and registered owners of the bonds.

History. Acts 2007, No. 1045, § 1.

14-144-304. Issuance of revenue bonds — Price and manner sold.

The bonds may be sold for a price, including sale at a discount, and in a manner the research park authority may determine by resolution.

History. Acts 2007, No. 1045, § 1.

14-144-305. Issuance of revenue bonds — Execution.

(a)(1) The bonds shall be executed by the manual or facsimile signatures of the chair and secretary of the board of the research park authority.

(2) In case any of the officers whose signatures appear on the bonds or coupons cease to be officers before the delivery of the bonds or coupons, their signatures shall nevertheless be valid and sufficient for all purposes.

(b) The coupons attached to the bonds may be executed by the facsimile signature of the chair of the authority.

History. Acts 2007, No. 1045, § 1.

14-144-306. Issuance of revenue bonds — Obligation of research park authority.

(a) The revenue bonds issued under this chapter shall be obligations only of the research park authority and shall not be general obligations of any county or municipality, accredited institution of higher education, or the State of Arkansas.

(b)(1) The revenue bonds shall not constitute an indebtedness of any county or municipality, accredited institution of higher education, or the State of Arkansas within the meaning of any constitutional or statutory limitation.

(2) It shall be plainly stated on the face of each bond that the bond has been issued under the provisions of this chapter and that the bond does not constitute an indebtedness of any county or municipality, accredited institution of higher education, or the State of Arkansas within any constitutional or statutory limitation.

(c) The principal of and interest on the bonds may be secured to the extent set forth in the resolution or indenture securing the bonds by a pledge of and payable from all or any part of revenues derived from the use of facilities of the authority, including without limitation:

(1) Revenues derived from rates and charges imposed and maintained for the use of facilities of the authority;

(2) Revenues derived from taxes or fees levied under this chapter; and

(3) Lease rentals under leases or payments under security agreements or other instruments entered into under this chapter.

History. Acts 2007, No. 1045, § 1.

14-144-307. Issuance of revenue bonds — Refunding bonds.

(a)(1) Revenue bonds may be issued under this chapter to refund any obligations issued under this chapter.

(2) The refunding bonds may be combined with bonds issued into a single issue.

(b)(1) When bonds are issued under this section for refunding purposes, the bonds may either be sold or delivered in exchange for the outstanding obligations.

(2) If the bonds are sold, the proceeds may be either applied to the payment of the obligations refunded or deposited in escrow for the retirement of the bonds.

(c)(1) All refunding bonds issued under this chapter shall in all respects be authorized, issued, and secured in the manner provided for other bonds issued under this chapter and shall have all the attributes of those bonds.

(2) The resolution under which the refunding bonds are issued may provide that any of the refunding bonds shall have the same priority of lien on the revenues pledged for their payment as was enjoyed by the obligations refunded by the bonds.

History. Acts 2007, No. 1045, § 1.

14-144-308. Issuance of revenue bonds — Mortgage lien.

(a) The resolution or indenture securing the bonds may impose a foreclosable mortgage lien upon or security interest in the facilities of the research park authority or any portion of the facilities, and the extent of the mortgage lien or security interest may be controlled by the resolution or indenture, including without limitation provisions pertaining to the release of all or part of the facilities subject to the mortgage lien or security interest in the event of successive issues of bonds.

(b) Subject to the terms, conditions, and restrictions contained in the resolution or indenture, any holder of any of the bonds or of any coupon attached to a bond or a trustee on behalf of the holders either at law or in equity may enforce the mortgage lien or security interest and by proper suit may compel the performance of the duties of the officials of the authority set forth in this chapter and set forth in the resolution or indenture.

History. Acts 2007, No. 1045, § 1.

14-144-309. Issuance of revenue bonds — Default.

(a)(1) In the event of a default in the payment of the principal of or interest on any bonds issued under this chapter, a court having jurisdiction may appoint a receiver to take charge of any facilities upon or in which there is a mortgage lien or security interest securing the bonds in default.

(2) The receiver may operate and maintain the facilities in receivership and charge and collect taxes, fees, rates, and rents sufficient to provide for the payment of any costs of receivership and operating expenses of the facilities in receivership and to apply the revenues derived from the facilities in receivership in conformity with this chapter and the resolution or indenture securing the bonds in default.

(3) When the default has been cured, the receivership shall be ended and the facilities returned to the research park authority.

(b) The relief provided for in this section is in addition and supplemental to the remedies that may be provided for in the resolution or indenture securing the bonds and shall be so granted and administered as to accord full recognition to the priority rights of bondholders as to the pledge of revenues from, mortgage lien on, and security interest in facilities as specified in and fixed by the resolution or indenture securing successive issues of bonds.

History. Acts 2007, No. 1045, § 1.

14-144-310. Agreements to obtain funds.

In connection with obtaining funds for its purposes, a research park authority may enter into an agreement with any person, including the United States Government or any agency or subdivision of the United States Government, containing such provisions, covenants, terms, and conditions as the authority deems advisable.

History. Acts 2007, No. 1045, § 1.

14-144-311. Exemption from taxation.

(a) The property of each research park authority is exempt from all local and municipal taxes.

(b) Bonds, notes, debentures, and other evidences of indebtedness of the authority are declared to be issued for a public purpose and to be public instrumentalities and, together with interest thereon, are exempt from all state, county, and municipal taxes, including without limitation income tax, inheritance tax, and estate taxes.

(c) The establishment, development, and growth of research parks in the State of Arkansas serves a public purpose and use through:

(1) The creation of high-paying jobs;

(2) The ability to retain some of our most highly educated Arkansans;

(3) The growth of Arkansas-based businesses whose focus on the research and development of products and services will serve to diversify Arkansas's economy; and

(4) A strategic alliance between business and higher education that has the potential to substantially improve Arkansas's economy.

History. Acts 2007, No. 1045, § 1.

14-144-312. Use of surplus funds.

(a) If a research park authority realizes a surplus, whether from operating the research park facilities and other facilities or leasing it or them for operation, over and above the amount required for the maintenance, improvement, and operation of the research park facility and other facilities and for meeting all required payments on its obligations, the authority shall set aside the reserve for future operations, improvements, and contingencies as the authority deems proper and shall then apply the residue of the surplus, if any, to the payment of any recognized and established obligations not then due.

(b) After all the recognized and established obligations have been paid off and discharged in full, the authority shall set aside at the end of each fiscal year the reserve for future operations, improvements, and contingencies as prescribed in subsection (a) of this section and then pay the residue of the surplus, if any, to the sponsoring county, municipality, accredited institution of higher education and, if applicable, state agency in direct proportion to each sponsor's financial contributions to the authority, if the distribution of the residue of the surplus does not violate United States law or the terms of any deed, grant agreement, or other agreement with the United States.

History. Acts 2007, No. 1045, § 1.

14-144-313. Public and private contributions.

(a) Contributions may be made to a research park authority from time to time by any county, municipality, or accredited institution of higher education by the State of Arkansas or any agency of the state or by any person.

(b)(1) In order to afford maximum opportunities for contributions, the agreement provided for under § 14-144-201 may be treated as a cooperative agreement under the provisions of the Interlocal Cooperation Act, § 25-20-101 et seq., and at the election of the sponsors of the authority may contain language enabling the agreement to be treated as a formal compact under § 14-165-201 et seq.

(2) If the conditions set forth in subdivision (b)(1) of this section are met, the authority shall hold title to property in its powers and capacity as a public corporation rather than as a commission-trustee as provided in § 14-165-201 et seq. or may be treated as a less formal arrangement for the cooperative use of industrial development bond funds, all to the end that the counties and municipalities may contribute to the author-

ity funds derived from general obligation bonds under the Arkansas Constitution, from revenue bonds under the Municipalities and Counties Industrial Development Revenue Bond Law, § 14-164-201 et seq., and from other available sources, and may contribute funds derived from a combination of these sources.

History. Acts 2007, No. 1045, § 1.

14-144-314. Accounts and reports.

(a)(1) All funds received by a research park authority shall be deposited in such banks as the research park authority may direct and shall be withdrawn from those banks in a manner the authority may direct.

(2)(A) Each authority shall keep strict account of all of its receipts and expenditures and shall each quarter make a report to those participating entities that have made contributions.

(B)(i) The report shall contain an itemized account of the authority's receipts and disbursements during the preceding quarter.

(ii) The report shall be made within sixty (60) days after the end of the quarter.

(b)(1)(A) Within sixty (60) days after the end of each fiscal year, each research park authority shall cause an annual audit to be made by an independent certified public accountant and shall file a copy of the resulting audit report with each of the governing bodies participating in the authority.

(B) The audit shall contain an itemized statement of the authority's receipts and disbursements for the preceding year.

(2) The books, records, and accounts of each authority shall be subject to audit and examination by any proper public official or body in the manner provided by law.

History. Acts 2007, No. 1045, § 1.

14-144-315. County, municipal, and state participation.

A county, municipality, accredited institution of higher education, and state agency that is a sponsor of a research park authority may:

(1) Appoint members of a research park authority;

(2) Contribute to the cost of acquiring, constructing, equipping, maintaining, and operating the research park facilities and appurtenant facilities; and

(3) Transfer and convey to the authority property of any kind acquired by the county, municipality, accredited institution of higher education, and state agency or the State of Arkansas for research and economic development.

History. Acts 2007, No. 1045, § 1.

14-144-316. Lease of facilities.

(a) Each research park authority may lease its research park facilities and all or any part of its appurtenances and facilities to any available lessee at a rental and upon such terms and conditions as the authority deems proper.

(b) Leases shall be for some purpose associated with research or economic development activities that serve to build the local, regional, and state economies.

History. Acts 2007, No. 1045, § 1.

14-144-317. Sale of assets.

If the board of a research park authority so determines, the authority may sell all or any part of its properties and assets and distribute the proceeds among the sponsoring counties, municipalities, accredited institutions of higher education, and state agencies in the proportion each sponsor contributed to the authority's funds or otherwise in the manner set forth in the agreement or resolution establishing the authority if no sale of properties or assets and no distribution of proceeds of a sale are done in a manner that violates United States law or the terms of any deed, grant agreement, or other agreement with the United States.

History. Acts 2007, No. 1045, § 1.

14-144-318. Authorized investors.

Any county or municipality or any board, commission, or other authority established by ordinance of any county or municipality or the boards of trustees, respectively, of the firemen's relief and pension fund and the policemen's pension and relief fund of any such municipality, or the board of trustees of any retirement system created by the General Assembly may invest any of its funds not immediately needed for its purposes in bonds issued under this chapter, and bonds issued under this chapter shall be eligible to secure the deposit of public funds.

History. Acts 2007, No. 1045, § 1.

SUBTITLE 10. ECONOMIC DEVELOPMENT AND TOURISM GENERALLY

CHAPTER 163

INDUSTRIAL COMMISSIONS

SUBCHAPTER.

2. Cities of the First Class in Counties of 105,000 or More.

Subchapter 2 — Cities of the First Class in Counties of 105,000 or More

SECTION.

Effective Dates. Acts 2009, No. 1480, § 117: Apr. 10, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act makes various revisions to Arkansas election laws that are designed to improve the administration of elections and special elections and that these revisions should be implemented as soon as possible so that the citizens of this state may benefit from improved election procedures. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

14-163-207. Levy of tax.

(a) By ordinance of its governing body, any city may levy, from time to time a special tax, not exceeding in the aggregate five (5) mills on the dollar of the assessed valuation of all taxable real and personal property in the city, for the purposes specified in § 14-163-206 when petitioned to do so by at least ten percent (10%) of the owners of real property in the city and after approval of a majority of the electors of the city voting on the question submitted at a special election called for the purpose.

(b)(1) Each petition for a special tax shall be directed to the governing body of the city and filed with the city clerk.

(2) A petition shall contain at least the following information:

(A) The purposes for which the tax proceeds are to be expended, named by general designation as set forth in this subchapter, if these expenditures are to be made for less than all of the authorized purposes and, if not, a statement that the proceeds are to be expended for any or all authorized purposes as the governing body of the city in its discretion shall determine from time to time;

(B) The amount of the tax in terms of mills which may be for all or any portion of the total authorized five (5) mills not theretofore voted;

(C) The number of years for which the tax is to be collected; and

(D) If there is to be a bond issue, the total amount of bonds to be voted and the length of time in years over which the bonds are to mature.

(c)(1) Upon the filing of the petition, the city clerk shall publish a notice one (1) time in a newspaper of general circulation in the city which need state only that a petition has been filed under the provisions of this subchapter requesting the levying of a special tax under Arkansas Constitution, Amendment 18, and stating the time, date, and

place that a hearing will be held to determine the sufficiency of the petition.

(2) The notice must be published at least ten (10) days prior to the date of the hearing.

(d)(1) At the time, date, and place specified in the notice, the governing body of the city shall hold the hearing and shall determine and make a finding as to whether or not the petition is signed by at least ten percent (10%) of the owners of real property in the city.

(2)(A) If the governing body finds that the petition is signed by the requisite owners of real property, it shall adopt an ordinance setting forth its finding and calling a special election to be held in the city in accordance with § 7-11-201 et seq.

(B) The ordinance shall be published one (1) time.

(C) The finding that the petition is sufficient shall be conclusive unless attacked in the courts within thirty (30) days after the date of publication of the ordinance.

(D)(i) The ordinance shall contain at least the information set forth in this section as required information to be included in the petition.

(ii) In addition, the ordinance shall specify the form of the ballot to be submitted to the electors.

(e)(1) The ballot shall submit the question of voting for or against an industrial tax in the amount specified by the petition.

(2) In addition, if the bonds are to be voted upon, the statement of the measure on the ballot must, by general language, advise the electors of:

(A) The amount of the bond issue;

(B) The length of time in years over which the bonds are to mature; and

(C) The fact that the industrial tax, if voted in, will be a continuing annual tax until the principal of and interest on the bonds are paid.

(f)(1) The election shall be held and conducted, the vote canvassed, and the results declared in the manner provided for municipal elections, except as may be otherwise expressly provided.

(2) Notice of the election shall be given by the mayor of the city by advertisement in a newspaper of general circulation within the city one (1) time a week for four (4) consecutive weeks with the last publication to be not less than ten (10) days prior to the date of the election.

(3) Only qualified electors of the city shall have the right to vote.

(4) The results of the election shall be proclaimed by the mayor by proclamation published one (1) time in a newspaper of general circulation in the city and shall be conclusive unless attacked in the courts within thirty (30) days after the date of publication of the proclamation.

(g) The tax shall be levied by the governing body of the city and extended on the tax books and collected as general city taxes are extended and collected.

History. Acts 1963, No. 206, §§ 2, 6; A.S.A. 1947, §§ 19-3102, 19-3106; Acts 2005, No. 2145, § 46; 2007, No. 1049, § 67; 2009, No. 1480, § 86.

CHAPTER 164

INDUSTRIAL DEVELOPMENT BONDS

SUBCHAPTER.

Subchapter 2 — Municipalities and Counties Industrial Development Revenue Bond Law

SECTION.

Effective Dates. Acts 1999, No. 307, § 7: Feb. 25, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that there is an immediate need for the issuance of industrial revenue bonds by municipalities and counties for the financing of tourism attractions and facilities, to facilitate the issuance of industrial revenue bonds in the most expeditious manner possible, and to enhance the security of such bonds through the pledging of surplus utility revenues and the use of surplus funds in appropriate circumstances, all for the purpose of securing and developing industry. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2005, No. 1922, § 6: Apr. 11, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that there is an immediate need to secure and develop industry through the issuance of industrial development revenue bonds by cities and counties to finance significant industrial projects, to enhance the security of the bonds through the pledging of additional revenue sources, and to confirm and ratify the practice of loaning the proceeds of industrial development revenue bonds to secure and develop industry. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2007, No. 644, § 3: Mar. 28, 2007. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that there is an immediate need for certainty in the procedure for issuance of industrial revenue bonds by municipalities and counties for the financing of industrial projects for the purpose of securing and developing industry. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become

effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

CASE NOTES

Cited: Pulaski County v. Jacuzzi Bros. Div., 332 Ark. 91, 964 S.W.2d 788 (1998).

14-164-201. Title.

RESEARCH REFERENCES

ALR. When is property owned by state or local governmental body put to public use so as to be eligible for property tax exemption. 114 A.L.R.5th 561.

14-164-202. Purpose.

CASE NOTES

Cited: Pulaski County v. Jacuzzi Bros. Div., 332 Ark. 91, 964 S.W.2d 788 (1998).

14-164-203. Definitions.

As used in this subchapter:

(1) "Construct" means to acquire or build, in whole or in part, in such manner and by such method, including contracting therefor and, if the latter, by negotiation or bidding upon such terms and pursuant to such advertising as the municipality or county shall determine to be in the public interest and necessary under the circumstances existing at the time to accomplish the purposes of, and authorities set forth in, this subchapter;

(2)(A) "County" means a county of this state, or if a county is divided into two (2) districts, the term "county" means the entire county or either district of the county.

(B) It is the purpose and intent of this subdivision (2) to define the term "county", as used in this subchapter, to mean an entire county or either district of a county which is divided into two (2) districts and has two (2) separate levying courts, in order that either district of a county so divided may issue revenue bonds and do all other acts in the manner and for the purposes authorized in this subchapter;

(3) "Equip" means to install or place on or in any building or structure equipment of any kind, whether or not affixed, including, without limiting the generality of the foregoing, building service equipment, fixtures, heating equipment, air conditioning equipment, machinery, furniture, furnishings, and personal property of every kind;

(4) "Facilities" means any real property, personal property, or mixed property of any kind that can be used or that will be useful in securing

or developing industry, including, without limiting the generality of the foregoing, rights-of-way, roads, streets, pipes, pipelines, reservoirs, utilities, materials, equipment, fixtures, machinery, furniture, furnishings, instrumentalities, and other real, personal, or mixed property of every kind;

(5) "Governing body" means the council, board of directors, or city commission of any municipality;

(6) "Industry" means, but is not limited to, manufacturing facilities, warehouses, distribution facilities, repair and maintenance facilities, agricultural facilities, corporate and management offices for industry, tourism attractions and facilities, and technology-based enterprises;

(7) "Lease" means to lease for such rentals, for such periods, and upon such terms and conditions as the municipality or county shall determine, including, without limiting the generality of the foregoing, the granting of renewal or extension options for rentals for such periods and upon such terms and conditions as the municipality or county shall determine and the granting of purchase options for such prices and upon such terms and conditions as the municipality or county shall determine;

(8) "Loan" means to loan all or part of the proceeds of bonds upon repayment and other terms and conditions as the municipality or county determines;

(9) "Municipality" means a city of the first class, a city of the second class, or an incorporated town;

(10) "Sell" means to sell for such price, in such manner, and upon such terms as the municipality or county determines, including, without limiting the generality of the foregoing, private or public sale, and if public, pursuant to such advertisement as the municipality or county determines, sell for cash or credit payable in lump sum or installments over such period as the municipality or county determines and if on credit, with or without interest and at such rate or rates, as the municipality or county determines;

(11) "Surplus revenues" means revenues remaining after adequate provision has been made for expenses of operation, maintenance, and depreciation and all requirements of ordinances, orders, or indentures securing bonds issued before or after to finance the cost of acquiring, constructing, reconstructing, extending, or improving the lands, buildings, or facilities for developing and securing industry or utilities have been fully met and complied with;

(12) "Technology-based enterprises" means:

(A) A grouping of growing business sectors, identified as targeted businesses in § 15-4-2703(39) and which pay one hundred fifty percent (150%) of the lesser of the county or state average wage;

(B) "Scientific and technical services business" as defined in § 15-4-2703(35); and

(C) A corporation, partnership, limited liability company, sole proprietorship, or other legal entity whose primary business directly involves commercializing the results of research conducted in one (1)

of the six (6) growing business sectors identified as targeted businesses in § 15-4-2703(39) and paying not less than one hundred fifty percent (150%) of the lesser of the county or state average wage; and

(13) "Tourism attractions and facilities" means:

(A) Cultural or historical sites;

(B) Recreational or entertainment facilities;

(C) Areas of natural phenomena or scenic beauty;

(D) Theme parks;

(E) Amusement or entertainment parks;

(F) Indoor or outdoor plays or music shows;

(G) Botanical gardens;

(H) Cultural or educational centers; and

(I) Lodging facilities that are an integrated part of any of the enterprises in subdivisions (13)(A)-(H) of this section.

History. Acts 1960 (1st Ex. Sess.), No. 9, §§ 6, 12; 1963, No. 231, § 1; 1967, No. 213, §§ 1, 2; 1971, No. 208, § 1; 1979, No. 773, § 1; 1981, No. 4, § 5; A.S.A. 1947, §§ 13-1606, 13-1612 — 13-1612.2; Acts 1999, No. 307, § 1; 2005, No. 1232, § 5; 2005, No. 1922, § 1.

14-164-204. Construction.

(a) This subchapter shall be liberally construed to accomplish its intent and purposes and shall be the sole authority required for the accomplishment of its purpose. To this end, it shall not be necessary to comply with general provisions of other laws dealing with public facilities, their acquisition, construction, leasing, encumbering, or disposition.

(b)(1) The practice of municipalities and counties and their authority to loan the proceeds of industrial development revenue bonds to accomplish the purposes set forth in § 14-164-205 is explicitly confirmed and ratified.

(2) All loans previously made by a municipality or county shall be considered for all purposes as if made under the authority of this subchapter.

History. Acts 1960 (1st Ex. Sess.), No. 9, § 15; 1961, No. 48, § 5; 1971, No. 208, § 2; A.S.A. 1947, §§ 13-1614, 13-1615; Acts 2005, No. 1922, § 2.

14-164-205. Authority to develop industry.

CASE NOTES

Industrial Development.

Summary judgment for gas company in its declaratory action was proper because the county's grant of a pipeline easement to manufacturer was null and void due to the county's failure to follow the appraisal, notice, and bidding procedures required in § 14-16-105, and the exemptions set out in § 14-16-105(f)(2) for conservation easements did not include the pipeline easement; further, this section, which allows conveyances for industrial development, did not apply where there was no evidence that the easement was granted to develop industry. MacSteel Div. of Quanex v. Ark. Okla. Gas Corp., 363 Ark. 22, 210 S.W.3d 878 (2005).

In a gas corporation's suit against a

steel manufacturer and the county challenging a lease and easement granted the manufacturer, summary judgment in favor of the manufacturer and the county was proper as the grant of the easement to allow the manufacturer to obtain gas for its industrial operations was permitted under this section. Ark. Okla. Gas Corp. v. MacSteel Div. of Quanex, 370 Ark. 481, 262 S.W.3d 147 (2007).

Cited: Pulaski County v. Jacuzzi Bros. Div., 332 Ark. 91, 964 S.W.2d 788 (1998).

14-164-206. Authority to issue revenue bonds.

(a) Municipalities and counties are authorized to use any available revenues for the accomplishment of the purposes set forth in § 14-164-205 and are authorized to issue revenue bonds and to loan and otherwise use the proceeds thereof for the accomplishment of the purposes set forth in § 14-164-205, either alone or together with other available funds and revenues.

(b)(1) The proceeds of bonds issued may be used or loaned to pay:

(A) All or any portion of the costs of accomplishing the specified purposes;

(B) All or any portion of the costs of issuing the bonds;

(C) The amount necessary for a reserve, if desirable;

(D) The amount necessary to provide debt service on the bonds until revenues for payment of the bonds are available; and

(E) Any other costs of whatever nature necessarily incidental to the accomplishment of the specified purposes.

(2)(A) In addition, revenue bonds are authorized for the purpose of refunding any bonds issued and outstanding by a municipality or county under the provisions of Arkansas Constitution, Amendment 49 [repealed], it being declared that the refunding will be in the best interest of the municipality or county involved and will be in furtherance of the purpose of securing and developing industry in that the tax levied for Arkansas Constitution, Amendment 49 [repealed] bonds being refunded will, by virtue of the refunding, be released and thereby made available for a subsequent bond issue under Arkansas Constitution, Amendment 49 [repealed].

(B) The bonds issued under this subchapter for the purpose of refunding Arkansas Constitution, Amendment 49 [repealed] bonds may be issued solely for that purpose or may be issued for that purpose and for the accomplishment of any other purposes set forth in § 14-164-205.

History. Acts 1960 (1st Ex. Sess.), No. 9, § 3; 1961, No. 48, § 1; 1965, No. 383, § 1; A.S.A. 1947, § 13-1603; Acts 2005, No. 1922, §§ 3, 4.

A.C.R.C. Notes. Acts 2007, No. 644, § 2, provided: "The amendment made by Section 1 of this act shall apply to all ordinances and orders heretofore adopted or entered under the authority of Arkansas Code § 14-164-208. All such ordinances and orders heretofore adopted or entered shall be considered for all purposes as if adopted or entered under the authority of this act. No such ordinance heretofore adopted shall be held to be invalidly adopted by reason of the provision of Arkansas Code § 14-55-206."

CASE NOTES

Ad Valorem Tax Exemption.

In the context of an Act 9 industrial development program, as codified at §§ 14-164-201 to -224, maturity and payment of bonds do not independently trigger the end of the public purpose and the end of the exemption from ad valorem taxes. Pulaski County v. Jacuzzi Bros. Div., 332 Ark. 91, 964 S.W.2d 788 (1998).

14-164-208. Adoption of bond ordinance or order.

(a)(1) Revenue bonds authorized by this subchapter may be issued by a municipality upon the adoption of an ordinance for that purpose by the governing body of the municipality.

(2) Revenue bonds authorized by this subchapter may be issued by a county upon the entry of an order of the county court of the county.

(b) The ordinance or order shall state the purpose for which the revenue bonds are to be issued and the total principal amount of the issue.

(c)(1) No ordinance or order shall be adopted or entered until after a public hearing is held before the governing body of the municipality or the county court of the county. However, no public hearing shall be required for the issuance of bonds for the purpose of refunding any obligations issued under this subchapter.

(2) At least ten (10) days prior to the date of the hearing, notice of it shall be published one (1) time in a newspaper of general circulation in the municipality or county.

(d) After the hearing, which may be adjourned from time to time, the ordinance or order as introduced or as modified or amended may be adopted or entered.

(e)(1) The notice provided for in this section shall be published by the mayor, clerk, or recorder of the municipality or by the county judge or county clerk of the county.

(2) It shall not be necessary that the action be taken by the governing body or county court to direct publication of the notice.

(f)(1)(A) A municipal ordinance authorizing bonds shall be published one (1) time in a newspaper of general circulation in the municipality.

(B) It shall not be necessary to publish a county court order authorizing bonds.

(C) It shall not be necessary to comply with general provisions of other laws dealing with the publication or posting of ordinances or orders.

(2)(A) Subdivision (f)(1) of this section applies to all ordinances and orders adopted or entered under this section before March 28, 2007.

(B) An ordinance or order adopted or entered before March 28, 2007, shall be considered for all purposes as if adopted or entered under the authority of this subsection.

(C) An ordinance adopted before March 28, 2007, shall not be held to be invalidly adopted for noncompliance with § 14-55-206.

History. Acts 1960 (1st Ex. Sess.), No. 9, § 4; 1968 (1st Ex. Sess.), No. 52, § 1; 1975 (Extended Sess., 1976), No. 1239, § 1; 1981, No. 503, § 1; A.S.A. 1947, § 13-1604; Acts 1997, No. 540, § 16; 1999, No. 307, § 2; 2007, No. 644, § 1; 2009, No. 163, § 2.

A.C.R.C. Notes. Acts 2007, No. 644, § 2, provided: "The amendment made by Section 1 of this act shall apply to all ordinances and orders heretofore adopted or entered under the authority of Arkansas Code § 14-164-208. All such ordinances and orders heretofore adopted or entered shall be considered for all purposes as if adopted or entered under the authority of this act. No such ordinance heretofore adopted shall be held to be invalidly adopted by reason of the provision of Arkansas Code § 14-55-206."

14-164-217. Bonds — Payment.

(a)(1) Revenue bonds issued under this subchapter shall not be general obligations of the municipality or county, but shall be special obligations, and in no event shall the revenue bonds constitute an indebtedness of the municipality or county within the meaning of any constitutional or statutory limitation.

(2) It shall be plainly stated on the face of each bond that it has been issued under the provisions of this subchapter and that it does not constitute an indebtedness of the municipality or county within any constitutional or statutory limitation.

(b)(1) The principal of and interest on the revenue bonds and trustee's and paying agent's fees shall be payable from one (1) or more of the following sources as determined by the municipality or county:

(A) Revenues derived from the lands, buildings, or facilities acquired, constructed, reconstructed, extended, or improved, in whole or in part, with the proceeds of the bonds;

(B) Surplus revenues derived from other lands, buildings, or facilities used and useful for securing and developing industry;

(C) Surplus revenues derived from water, sewer, sanitation, gas, and electric utilities owned by the municipality or county;

(D) Revenues derived from payments in lieu of ad valorem taxes to the municipality or county with respect to the lands, buildings, or facilities acquired, constructed, reconstructed, extended, or improved, in whole or in part, with the proceeds of the bonds; and

(E) Revenues derived from governmental grants and tax rebates and credits received or anticipated to be received with respect to the lands, buildings, or facilities acquired, constructed, reconstructed, extended, or improved, in whole or in part, with the proceeds of the bonds.

(2) The revenues may also be pledged to and used for the reimbursement for payments of the principal of and interest on the bonds and trustee's and paying agent's fees made by the Arkansas Economic Development Commission or the Arkansas Economic Development Council pursuant to guaranties issued under the Industrial Revenue Bond Guaranty Law, § 15-4-601 et seq., or made by the Arkansas Development Finance Authority pursuant to guaranties issued under the Arkansas Development Finance Authority Bond Guaranty Act of 1985, § 15-5-401 et seq.

(3) Surplus funds on hand derived from the water, sewer, sanitation, gas, and electric utilities owned by the municipality or county may also be pledged and used for any of the foregoing purposes, including the establishment and maintenance of a reserve fund or funds for the payment of the principal of and interest on the bonds and trustee's and paying agent's fees or the reimbursement thereof.

History. Acts 1960 (1st Ex. Sess.), No. 9, § 6; A.S.A. 1947, § 13-1606; Acts 1999, No. 307, § 3; 2005, No. 1922, § 5.

Subchapter 3 — Local Government Bond Act

A.C.R.C. Notes. References to "this subchapter" in §§ 14-164-301 — 14-164-337 may not apply to §§ 14-164-338 — 14-164-340 which were enacted subsequently.

Cross References. Sales and use tax, § 26-74-601 et seq.

Effective Dates. Acts 1999, No. 1137, § 12: Apr. 6, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that the provisions of Act 1176 of 1997 were intended to encourage the establishment of uniform definitions of the term

'single transaction' in connection with the levy and collection of local sales and use taxes. However, since the procedures established by the provisions of Act 1176 have caused confusion and have resulted in inconsistent applications of the procedures for adoption of local sales and use taxes, the interests of a number of cities and counties who have otherwise complied fully with the provisions of Arkansas law may be prejudiced. This is a result never intended by the General Assembly and which could result in financial hardships and the reduction of services provided by Arkansas cities and counties. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1999, No. 1324, § 5: Apr. 12, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that the present law allows a one percent (1%) sales tax to be levied by the people to finance capital improvements and that the tax can be levied for no longer than twenty-four (24) months; that in some instances this method of financing is critical to the construction of capital improvements; that the twenty-four (24) month limit on sales taxes is inadequate to finance such capital improvements, that this act would extend the time frame from twenty-four (24) months to sixty (60) months which would enhance the ability to finance major capital improvement programs, and that this act should be given immediate effect in order to authorize the voters to vote as soon as possible upon this issue of levying the tax for sixty (60) months. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2001, No. 1168, § 4: Mar. 28, 2001. Emergency clause provided: "It is found and determined by the General Assembly that municipalities and counties utilize capital improvement bonds to finance needed capital improvements of a public nature and that legislation is needed to clarify and make technical changes to the statutory provisions regarding the levy of local sales and use taxes to be pledged to the retirement of capital improvement bonds. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2003, No. 362, § 3: Mar. 13, 2003. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that municipalities and counties utilize capital improvement bonds to finance needed capital improvements of a public nature; and that this act is immediately necessary because legislation is needed to amend the definition of the federal reserve rate in order to clarify the statutory maximum lawful rate of interest allowed on such bonds. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2003, No. 1273, § 88, as amended by Acts 2005, No. 2008, § 1, and Acts 2007, No. 180, § 1: Jan. 1, 2008. Effective date clause provided: "It is found and determined by the Eighty-fourth General

Assembly that the Streamlined Sales and Use Tax Agreement is necessary in order to stop the loss of sales tax revenue due to the rapid growth of internet sales, to level the playing field between local businesses and out-of-state businesses, and to negate the undue burden on interstate commerce; and that this act is necessary in order for Arkansas to be in compliance with the Streamlined Sales and Use Tax Agreement. Under the Streamlined Sales and Use Tax Agreement, when at least ten (10) states comprising at least twenty percent (20%) of the total population, as determined by the 2000 Federal census, of all states imposing a state sales tax have petitioned for membership and have been found to be in compliance with the requirements of the agreement, the agreement will become effective unless a specific effective date is otherwise given. These contingencies were met and the Streamlined Sales and Use Tax Agreement went into effect on October 1, 2005. Pursuant to the Streamlined Sales and Use Tax Agreement, a state may apply to become a party to the Streamlined Sales and Use Tax Agreement by submitting a petition for membership and certificate of compliance to the governing board. The governing board shall then determine if the petitioning state is in compliance with the Streamlined Sales and Use Tax Agreement. A state is in compliance with the Streamlined Sales and Use Tax Agreement if the effect of the state's laws, rules, regulations, and policies is substantially in compliance with the requirements in the Streamlined Sales and Use Tax Agreement. The petitioning state's proposed date of entry to the Streamlined Sales and Use Tax Agreement shall be on the first day of a calendar quarter. It is anticipated that Arkansas will become a full member of the Streamlined Sales and Use Tax Governing Board on January 1, 2008. In order to allow the Department of Finance and Administration and local businesses additional time to prepare for the changes necessary as the result of this act, all of the sections in this act will become effective on January 1, 2008. Thus, any section of this act with a specific effective date shall have an effective date of January 1, 2008, and not the specific effective date provided in the introductory language to the section, and when no effective date was listed in the section, then the effective date will also be January 1, 2008."

Acts 2005, No. 1551, § 8: Apr. 5, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the ability of local entities to issue bonds is an important component to the state economy; that laws concerning local capital improvement bonds are in need of immediate clarification in order to allow cities and counties to properly issue bonds for the benefit of the city, county, and state. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2007, No. 166, § 9: Feb. 28, 2007. Emergency clause provided: "It is found and determined by the General Assembly that the current procedure for revenue distribution to the regional airport beneficiaries is cumbersome and inefficient; that the regional airport beneficiaries of the funds levied under the Regional Airport Act are suffering material adverse consequences under current procedures; and that accelerated receipt of those funds is appropriate. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2009, No. 1480, § 117: Apr. 10, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act makes various revisions to Arkansas election laws that are designed to improve the administration of elections and special elections and that these revisions should be implemented as soon as possible so that the citizens of this state may benefit

from improved election procedures. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2011, No. 287, § 2: Mar. 15, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the voters of the state have approved Issue No. 2 at the general election held November 2, 2010; that Issue No. 2 removed the interest rate limitation on bonds set forth in Amendment 62 of the Arkansas Constitution of 1874; that bonds are issued under the authority of Amendment 62 of the Arkansas Constitution of 1874 under § 14-164-301 et seq.; that the interest limit on bonds issued under § 14-164-301 et seq. must be removed; and that this act is immediately necessary to allow municipalities and counties to issue bonds at market rates to fund voter-approved capital improvement projects. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2011, No. 828, § 11, effective Oct. 1, 2011, provides: "Sections 1 through 10 of this act are effective on the first day of the calendar quarter following the effective date of this act."

Acts 2013, No. 1241, § 4: Apr. 16, 2013. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that there is a shortage of moneys at the municipal and county level to fund contracts for surface transportation projects for which there is an immediate need in this state; that municipalities and counties can obtain funding for surface transportation projects by issuing bonds; and that this act is immediately necessary because municipalities and counties need to have the authority, with voter approval, to issue bonds payable from their share of collections of the temporary one-half percent (0.5%) sales and use tax levied under Amendment 91 to the Arkansas Constitution to finance surface transportation projects. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

14-164-302. Legislative intent.

The people of the State of Arkansas by the adoption of Arkansas Constitution, Amendment 62, have expressed their intention to provide county and municipal governments expanded powers and authority with respect to the creation of bonded indebtedness for capital improvements of a public nature and the financing of economic development projects, and have empowered the General Assembly to define and prescribe certain matters with respect to the exercise of this power and authority. To that end this subchapter is adopted to enable the accomplishment and realization of the public purposes intended by Arkansas Constitution, Amendment 62, and is not intended to otherwise limit in any manner the exercise of the powers of counties and municipalities.

History. Acts 1985, No. 871, § 2; A.S.A. 1947, § 13-1240; Acts 2017, No. 533, § 1.

Amendments. The 2017 amendment substituted "economic development projects" for "facilities for the securing and developing of industry" in the first sentence; and made stylistic changes.

14-164-303. Definitions.

As used in this subchapter:

(1) "Bonds" means bonds issued pursuant to this subchapter or under Arkansas Constitution, Amendment 62, if issued prior to the enactment hereof;

(2) "Capital improvements of a public nature" or "capital improvements" for the purposes of Arkansas Constitution, Amendment 62, and this subchapter means whether obtained by purchase, lease, construction, reconstruction, restoration, improvement, alteration, repair, or other means:

(A) Any physical public betterment or improvement or any preliminary plans, studies, or surveys relative thereto;

(B) Land or rights in land, including, without limitation, leases, air rights, easements, rights-of-way, or licenses; and

(C) Any furnishings, machinery, vehicles, apparatus, or equipment for any public betterment or improvement, which shall include, without limiting the generality of the foregoing definition, the following:

(i) City or town halls, courthouses, and administrative, executive, or other public offices;

(ii) Court facilities;

(iii) Jails;

(iv) Police and sheriff stations, apparatus, and facilities;

(v) Firefighting facilities and apparatus;

(vi) Public health facilities and apparatus;

(vii) Hospitals, nursing homes, and other healthcare facilities;

(viii) Facilities for nonprofit organizations engaged primarily in public health, health systems support, safety, disaster relief, and related activities;

(ix) Residential housing for low and moderate income, elderly, or individuals with disabilities and families;

(x) Parking facilities and garages;

(xi) Animal control facilities and apparatus;

(xii) Economic development facilities;

(xiii) Education and training facilities;

(xiv) Auditoriums;

(xv) Stadiums and arenas;

(xvi) Convention, meeting, or entertainment facilities;

(xvii) Ambulance and other emergency medical service facilities;

(xviii) Civil defense or early warning facilities and apparatus;

(xix) Air and water pollution control facilities;

(xx) Drainage and flood control facilities;

(xxi) Storm sewers;

(xxii) Arts and crafts centers;

(xxiii) Museums and related audiovisual facilities;

(xxiv) Libraries;

(xxv) Public parks, playgrounds, or other public open space;

(xxvi) Marinas;

(xxvii) Swimming pools, tennis courts, golf courses, camping facilities, gymnasiums, and other recreational facilities;

(xxviii) Tourist information and assistance centers;

(xxix) Historical, cultural, natural, or folklore sites;

(xxx) Fair and exhibition facilities;

(xxxi) Streets and street lighting, alleys, sidewalks, roads, bridges, viaducts, tunnels, overpasses, underpasses, interchanges, access roads, pedestrian walkways, and traffic control devices and improvements;

(xxxii) Airports, passenger or freight terminals, hangars, and related facilities;

(xxxiii) Barge terminals, ports, harbors, ferries, wharves, docks, and similar marine services;

(xxxiv) Slack water harbors, water resource facilities, waterfront development facilities, and navigational facilities;

(xxxv) Public transportation facilities;

(xxxvi) Public water systems and related transmission and distribution facilities, storage facilities, wells, impounding reservoirs, treatment plants, lakes, dams, watercourses, and water rights;

(xxxvii) Sewage collection systems and treatment plants;

(xxxviii) Maintenance and storage buildings and facilities;

(xxxix) Incinerators;

(xl) Garbage and solid waste collection disposal, compacting, and recycling facilities of every kind;

(xli) Facilities for the generation, transmission, and distribution of television communications;

(xlii) Gas and electric generation, transmission, and distribution systems, including, without limiting the generality of the foregoing, hydroelectric generating facilities, dams, powerhouses, and related facilities;

(xliii) Social and rehabilitative service facilities;

(xliv) Communications facilities and apparatus;

(xlv) Facilities and apparatus for voice, data, broadband, video, or wireless telecommunications services; and

(xlvi) Energy efficiency facilities and apparatus;

(3) "Chief executive" means the mayor of a municipality or the county judge of a county;

(4) "Clerk" means the clerk or recorder of a municipality or county clerk of a county;

(5) "County" means any county in the State of Arkansas;

(6) [Repealed.]

(7) "Economic development projects" means the land, buildings, furnishings, equipment, facilities, infrastructure, and improvements that are required or suitable for the development, retention, or expansion of:

(A) Manufacturing, production, and industrial facilities;

(B) Research, technology, and development facilities;

(C) Recycling facilities;

(D) Distribution centers;

(E) Call centers;

(F) Warehouse facilities;

(G) Job training facilities;

(H) Regional or national corporate headquarters facilities; and

(I) Sports complexes designed to host local, state, regional, and national competitions, including without limitation baseball, softball, and other sports tournaments;

(8) "Infrastructure" means:

(A) Land acquisition;

(B) Site preparation;

(C) Road and highway improvements;

(D) Rail spur, railroad, and railport construction;

(E) Water service;

(F) Wastewater treatment;

(G) Employee training, which may include equipment for such purpose; and

(H) Environmental mitigation or reclamation;

(9) "Issuer" means a municipality or a county;

(10) "Legislative body" means the quorum court of a county or the board of directors, board of commissioners, or similar elected governing body of a city or town;

(11) "Local sales and use tax", as used in §§ 14-164-327 — 14-164-339, means a tax on the receipts from sales at retail within a municipality or county of all items and services which are subject to taxation under the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq., and a tax on the receipts for storing, using, or consuming tangible personal property or taxable services under the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq.;

(12) "Municipality" means any city or incorporated town in the State of Arkansas;

(13) "Ordinance" means an ordinance, resolution, or other appropriate legislative enactment of a legislative body; and

(14) "Surface transportation project" means a project that involves the acquisition, construction, reconstruction, widening, extension, or maintenance of streets, alleys, or roadways, including without limitation bridges, viaducts, tunnels, overpasses, underpasses, interchanges, access roads, sidewalks, lighting, pedestrian walkways, curbs, gutters, other drainage structures and improvements, street lighting, traffic control devices and improvements, land and right-of-way acquisitions, and any project related thereto.

History. Acts 1985, No. 871, §§ 3, 9; A.S.A. 1947, §§ 13-1241, 13-1247; Acts 1987, No. 368, § 1; 1988 (4th Ex. Sess.), No. 26, § 1; 1991, No. 645, § 1; 1991, No. 646, § 1; 1997, No. 208, § 11; 1997, No. 1176, § 1; 1999, No. 1137, § 1; 2003, No. 362, § 1; 2003, No. 1273, §§ 12, 76, 77; 2005, No. 1551, §§ 1-4; 2013, No. 1241, §§ 1, 2; 2017, No. 533, §§ 2-4; 2019, No. 703, § 1; 2019, No. 910, § 3380; 2019, No. 1072, § 3.

A.C.R.C. Notes. Acts 1997, No. 208, § 1, as reenacted by Acts 2017, No. 255, § 1, provided: "Legislative intent and purpose. The General Assembly hereby acknowledges that many of the laws relating to individuals with disabilities are antiquated, functionally outmoded, derogatory, and ambiguous or are inconsistent with more recently enacted provisions of the law. Consequently, it is the intent of the General Assembly and the purpose of this act to clarify the relevant chapters of Titles 1, 6, 9, 13, 14, 16, 17, 20, 22, 23, and 27 of the Arkansas Code of 1987 Annotated."

Act 1999, No. 1137, § 8, provided: "It is the express intent of the General Assembly that this act be applied retroactively to any city or county ordinance adopted after January 1, 1998, as it is remedial and procedural in nature."

Acts 2003, No. 362, § 2, provided: "This act applies retroactively to bonds approved at elections held on or after January 9, 2003."

Acts 2003, No. 1273, § 1, provided: "Fundamental purpose.

"(a) In order to allow Arkansas to enter into a Streamlined Sales and Use Tax Agreement, Arkansas must simplify and modernize its sales and use tax laws.

"(b) The Streamlined Sales and Use Tax Agreement focuses on improving sales and use tax administration systems for all sellers and for all types of commerce through all of the following:

"(1) State level administration of sales and use tax collections;

"(2) Uniformity in the state and local tax bases;

"(3) Uniformity of major tax base definitions;

"(4) Central, electronic registration system for all member states;

"(5) Simplification of state and local tax rates;

"(6) Uniform sourcing rules for all taxable transactions;

"(7) Simplified administration of exemptions;

"(8) Simplified tax returns;

"(9) Simplification of tax remittances; and

"(10) Protection of consumer privacy.

"(c) The Director of the Department of Finance and Administration may enter into the Streamlined Sales and Use Tax Agreement, as described in subsections (a) and (b) of this section, upon the agreement's going into effect as outlined by that agreement.

"(d)(1) The General Assembly has the authority to establish the parameters of state and local sales and use taxes, including the application, exemptions, limitations, and administration of those taxes.

"(2) The changes to existing law effectuated by this act are intended as an expression of the General Assembly's authority to modify the parameters of state and local sales and use taxes, and the changes are not intended as a revocation or restraint of the power of cities and counties to levy local sales and use taxes.

"(3) It is the intent of the General Assembly that any modifications to the application or administration of local sales

and use taxes resulting from this act shall not require the approval of local voters, and that the modifications shall not invalidate existing local sales and use taxes."

Amendments. The 2017 amendment repealed former (7) through (9); added the definitions for "Economic development projects" and "Infrastructure"; and deleted "council" preceding "board of directors" in present (10).

The 2019 amendment by No. 703 added (2)(C)(xlv) and (2)(C)(xlvi).

The 2019 amendment by No. 910 repealed (6).

The 2019 amendment by No. 1072 added (7)(I).

14-164-305. Subchapter supplemental.

(a) It is the specific intent of this subchapter that this subchapter, and in particular §§ 14-164-326 — 14-164-339, be supplemental to other constitutional or statutory provisions that may provide for the financing of capital improvements of a public nature or economic development projects.

(b) Nothing contained in this subchapter shall be deemed to be a restriction or limitation upon alternative means of financing previously available or hereafter made available to municipalities or counties for the purposes set forth in this subchapter.

History. Acts 1985, No. 871, § 21; A.S.A. 1947, § 13-1258; Acts 1991, No. 646, § 2; 2017, No. 533, § 5; 2019, No. 383, § 17.

Amendments. The 2017 amendment, in (a), deleted "the provisions of" following "this subchapter that", substituted "§§ 14-164-326 – 14-164-339, be" for "§§ 14-164-326 to 14-164-339, are" and "economic development projects" for "the securing and developing of industry", and made stylistic changes.

The 2019 amendment deleted "§ 14-164-303(b) [repealed] and" following "particular" in (a).

14-164-307. Financing of economic development projects.

To provide for the financing of economic development projects, municipalities and counties may own, acquire, construct, reconstruct, extend, equip, improve, operate, maintain, sell, lease, contract concerning, and otherwise deal in or dispose of any economic development projects.

History. Acts 1985, No. 871, § 6; A.S.A. 1947, § 13-1244; Acts 2017, No. 533, § 6.

Amendments. The 2017 amendment substituted "economic development projects" for "facilities for industry" in the section heading; substituted "economic development projects" for "facilities for the securing, developing, preserving, and maintaining of industry" following "financing of", "may" for "are authorized to", "and" for "or" preceding "otherwise," and "economic development projects" for "industrial facilities" at the end.

14-164-308. Bonds generally — Authorizing ordinance.

Whenever a legislative body determines the need to issue bonds for capital improvements or economic development projects, the legislative body shall authorize the issuance of the bonds by ordinance specifying the principal amount of bonds to be issued, the purpose or purposes for

which the bonds are to be issued, and the maximum rate of any ad valorem tax to be levied and pledged to the retirement of the bonds.

History. Acts 1985, No. 871, § 4; A.S.A. 1947, § 13-1242; Acts 2017, No. 533, § 6.

Amendments. The 2017 amendment substituted "improvements or economic development projects" for "improvement or industrial development purposes" and "the legislative body" for "it".

14-164-309. Bonds generally — Election to authorize issuance.

(a) The question of the issuance of such bonds shall be submitted to the electors of the county or municipality at the general election or at a special election called for that purpose in accordance with § 7-11-201 et seq., as provided in the ordinance and held in the manner provided in this subchapter.

(b) Except as otherwise provided in this subchapter, the election shall be held and conducted in the same manner as a special or general election under the election laws of the state.

(c) The ordinance shall set forth the form of the ballot question or questions, which shall include a statement of the purpose or purposes for which the bonds are to be issued and the maximum rate of any ad valorem tax to be levied for payment of bonded indebtedness.

(d) Notice of the election shall be given by the clerk of the issuer by one (1) publication in a newspaper having general circulation within the municipality or county not less than ten (10) days prior to the election. No other publication or posting of a notice by any other public official shall be required.

(e) The chief executive officer of the municipality or county shall proclaim the results of the election by issuing a proclamation and publishing it one (1) time in a newspaper having general circulation within the municipality or county.

(f)(1) The results of the election as stated in the proclamation shall be conclusive unless suit is filed in the circuit court in the county in which the issuer is located within thirty (30) days after the date of the publication.

(2) No other action shall be maintained to challenge the validity of the bonds and of the proceedings authorizing the issuance of the bonds unless suit is filed in such circuit court within thirty (30) days after the date of the adoption of an ordinance authorizing the sale of the bonds.

History. Acts 1985, No. 871, § 4; A.S.A. 1947, § 13-1242; Acts 2005, No. 2145, § 47; 2007, No. 1049, § 68; 2009, No. 1480, § 87.

14-164-311. Bonds generally — Interest rates.

Bonds may bear the rate or rates of interest that the ordinance or trust indenture authorized in § 14-164-310(a) provides.

History. Acts 1985, No. 871, § 5; A.S.A. 1947, § 13-1243; Acts 2011, No. 287, § 1.

14-164-312. Bonds generally — Trust indenture.

(a) The ordinance authorizing the bonds may provide for the execution by the chief executive officer of the issuer of a trust indenture which defines the rights of the owners of the bonds and provides for the appointment of a trustee for the owners of the bonds.

(b) The trust indenture may provide for the priority between and among successive issues and may contain any of the provisions set forth in § 14-164-310 and any other terms, covenants, and conditions that are deemed desirable.

(c) A municipality or county is not required to publish an indenture or other agreement if:

(1) The ordinance that authorizes the indenture or other agreement:

(A) Is published as required by law governing the publication of an ordinance; and

(B) States that a copy of the indenture or other agreement is on file in the office of the clerk or recorder of the municipality or county for inspection by an interested person; and

(2) A copy of the indenture or other agreement is filed in the office of the clerk or recorder of the municipality or county.

History. Acts 1985, No. 871, § 5; A.S.A. 1947, § 13-1243; Acts 2007, No. 603, § 1.

14-164-315. Bonds generally — Sale.

Bonds may be sold at public or private sale for such price, including without limitation sale at a discount, and in such manner as the legislative body of the issuer may determine.

History. Acts 1985, No. 871, §§ 5, 7; A.S.A. 1947, §§ 13-1243, 13-1245; Acts 2017, No. 533, § 7.

Amendments. The 2017 amendment deleted former (b); deleted the (a) designation; substituted "Bonds" for "Except as provided in subsection (b) of this section, the bonds"; and made a stylistic change.

14-164-317. Bonds generally — Pledge and collection of ad valorem taxes.

(a) The ad valorem tax pledged for payment of bonds shall constitute a special fund pledged as security for the payment of such indebtedness.

(b) The ad valorem tax shall never be extended for any other purpose, nor collected for any greater length of time than necessary to retire the bonded indebtedness.

(c) Upon retirement on the bonded indebtedness, any surplus tax collections which may have accumulated shall be transferred to the general fund of the issuer.

(d) The collection of ad valorem taxes, or a portion thereof, may be suspended by the issuer when not required for the payment of the bonds, subject to any covenants with the owners of the bonds.

History. Acts 1985, No. 871, § 8; A.S.A. 1947, § 13-1246; Acts 2017, No. 533, § 8.
Amendments. The 2017 amendment deleted (b)(2) and (b)(3); deleted the (b)(1) designation; and made a stylistic change.

14-164-319. Bonds generally — Mortgage lien — Definition.

(a) The ordinance or trust indenture authorized in § 14-164-310 or § 14-164-312 may, but need not, impose a foreclosable mortgage lien upon the capital improvements or economic development projects financed with the proceeds of bonds issued under this subchapter.

(b) The nature and extent of the mortgage lien imposed under subsection (a) of this section may be controlled by the ordinance or trust indenture, including without limitation provisions:

(1) Pertaining to the release of all or part of the land, buildings, or facilities from the mortgage lien;

(2) Pertaining to the priority of the mortgage lien in the event of successive bond issues; and

(3) Authorizing any owner of bonds, or a trustee on behalf of all owners, either at law or in equity, to enforce the mortgage lien and, by proper suit, compel the performance of the duties of the officials of the issuer set forth in this subchapter or in the ordinance or trust indenture authorizing and securing the bonds.

(c) As used in this section, "mortgage lien" includes a security interest in any personal property constituting the capital improvements or economic development projects, or part of the capital improvements or economic development projects, financed with the proceeds of bonds issued under this subchapter.

History. Acts 1985, No. 871, § 13; A.S.A. 1947, § 13-1251; Acts 2017, No. 533, § 9.
Amendments. The 2017 amendment added "— Definition" in the section heading; substituted "economic development projects" for "industrial facilities" in (a); substituted "the mortgage lien imposed under subsection (a) of this section" for "such mortgage lien" in the introductory language of (b); rewrote (c); and made stylistic changes.

14-164-324. Refunding bonds.

(a) Bonds may be issued under this subchapter for the purpose of refunding any outstanding bonds issued pursuant to Arkansas Constitution, Amendment 62, or prior amendments to the Arkansas Constitution repealed by Arkansas Constitution, Amendment 62.

(b)(1) The refunding bonds may be either sold for cash or delivered in exchange for the outstanding obligations.

(2) If sold for cash, the proceeds may be either applied to the payment of the obligations refunded or deposited in irrevocable trust for the retirement thereof either at maturity or on an authorized redemption date.

(c)(1) Bonds issued to refund outstanding bonds that were issued under Arkansas Constitution, Amendment 62, shall in all respects be authorized and issued in the manner provided for the bonds being refunded.

(2)(A) However, if the refunding bonds are not in a greater principal amount than the bonds being refunded, the question of issuing the refunding bonds need not be submitted at an election.

(B) Any premium paid as part of the purchase price of the refunding bonds shall not be taken into account in calculating the principal amount of the refunding bonds.

(d)(1) The ordinance under which the refunding bonds are issued may provide that any refunding bonds shall have the same priority of lien on all sources of taxation or other income as originally pledged for payment of the obligation refunded thereby.

(2) Alternatively, the ordinance may provide that refunding bonds to be issued to refund indebtedness originally created under Arkansas Constitution, Amendment 13 [repealed], Arkansas Constitution, Amendment 17 [repealed], Arkansas Constitution, Amendment 25 [repealed], or Arkansas Constitution, Amendment 49 [repealed], may be issued and secured in the manner provided in Arkansas Constitution, Amendment 62, and this subchapter if the question of the issuance of the refunding bonds is submitted to the electors in the manner provided in § 14-164-309.

(e)(1) Bonds may also be issued under the provisions of this subchapter for the purpose of refunding any outstanding short-term financing obligation issued under Arkansas Constitution, Amendment 78, or revenue bonds, including bonds secured in whole or in part by revenues derived from any special tax pledged to secure the bonds, issued, whether or not issued prior or subsequent to April 15, 1985, to finance capital improvements of a public nature if the question of the issuance of the refunding bonds is submitted to the electors in the manner provided in § 14-164-309.

(2)(A) The refunding bonds may be either sold for cash or delivered in exchange for the outstanding obligations.

(B) If sold for cash, the proceeds may either be applied to the payment of the bonds being refunded or deposited in an irrevocable trust for the retirement thereof at maturity or on an authorized redemption date.

History. Acts 1985, No. 871, § 12; A.S.A. 1947, § 13-1250; Acts 2005, No. 1551, § 5; 2017, No. 533, §§ 10, 11.

Amendments. The 2017 amendment redesignated former (c) as (c)(1) and (c)(2)(A); added (c)(2)(B); in (e)(1), inserted "short-term financing obligation issued under Arkansas Constitution, Amendment 78, or" and substituted "to secure the bonds" for "thereto"; and made a stylistic change.

14-164-325. Taxes not state revenues.

It is the express intent of the General Assembly that any tax levied under the authority of this subchapter by a municipality or county to finance capital improvements of a public nature or economic development projects shall not constitute revenues of the state within the meaning of any constitutional or statutory provisions, but the tax levied under this subchapter shall at all times continue to be revenues of the

particular municipality or county notwithstanding the participation or involvement, for the convenience of administration, by the Secretary of the Department of Finance and Administration or the Treasurer of State in the manner authorized in this subchapter in any phase of collection, holding, or distribution of proceeds of any tax authorized under this subchapter.

History. Acts 1985, No. 871, § 2; A.S.A. 1947, § 13-1240; Acts 2017, No. 533, § 12; 2019, No. 910, § 3381.

Amendments. The 2017 amendment substituted "to finance" for "for the purpose of financing", "economic development projects" for "facilities for the securing and developing of industry", "the tax levied under this subchapter" for "such tax", and "Treasurer of State" for "State Treasurer".

The 2019 amendment substituted "Secretary of the Department of Finance and Administration" for "Director of the Department of Finance and Administration".

14-164-327. Capital improvement bonds — Local sales and use tax — Levy.

(a)(1) In lieu of or in addition to the levying of an ad valorem tax to retire bonds for capital improvements or for financing economic development projects, the legislative body of a municipality or county may adopt an ordinance levying a local sales and use tax in the amount of one-eighth of one percent (0.125%), one-fourth of one percent (0.25%), one-half of one percent (0.5%), three-fourths of one percent (0.75%), one percent (1%), or any combination of these amounts to retire the bonds in accordance with the terms of this section and §§ 14-164-328 — 14-164-335.

(2)(A) The ordinance may levy multiple taxes.

(B) However, there shall not be in effect at any one (1) time taxes levied under this subchapter at an aggregate rate greater than one percent (1%).

(b) A certified copy of the ordinance or ordinances authorizing the levy of a local sales and use tax or taxes and the issuance of bonds secured by the taxes shall be provided to the Secretary of the Department of Finance and Administration and to the Treasurer of State as soon as practicable after the adoption of the taxes.

(c) Section 26-74-414(b) does not apply to a local sales and use tax levied by a county under this subchapter for the sole purpose of retiring bonds for capital improvements or economic development projects if all collections derived from the local sales and use tax are pledged by the county to pay the principal and interest of the bonds for capital improvements or economic development projects.

History. Acts 1985, No. 871, § 9; A.S.A. 1947, § 13-1247; Acts 1991, No. 765, § 1; 2001, No. 1168, § 1; 2005, No. 1551, § 6; 2007, No. 603, § 2; 2011, No. 276, § 1; 2017, No. 533, §§ 13, 14; 2019, No. 910, § 3382.

Amendments. The 2017 amendment substituted "improvements or for financing economic development projects" for "improvement purposes" in (a)(1); and twice substituted "bonds for capital improvements or economic development projects" for "capital improvement bonds" in (c).

The 2019 amendment substituted "Secretary of the Department of Finance and Administration" for "Director of the Department of Finance and Administration" in (b).

14-164-328. Capital improvement bonds — Local sales and use tax — Election to authorize.

(a)(1)(A) On the date of adoption of an ordinance levying a local sales and use tax or taxes to retire the bonds for capital improvements or economic development projects, or within thirty (30) days following the adoption of the ordinance, the municipality or county shall provide by ordinance for the calling and holding of an election on the issuance of the bonds to which the tax or taxes will be pledged as provided in § 14-164-309.

(B) The ordinance levying the tax may also call the election.

(2)(A) In addition to the requirements of § 14-164-309 and in lieu of a reference to an ad valorem tax, if none is to be levied, there shall be set forth on the ballot a statement that a local sales and use tax or taxes shall be levied and pledged to the retirement of the bonds approved by the voters.

(B) The percentage rate for each tax shall also be specified on the ballot.

(b)(1) Following the election, the chief executive of the municipality or county shall issue his or her proclamation of the results of the election with reference to the bonds.

(2) The proclamation shall be published one (1) time in a newspaper having general circulation in the municipality or county.

(c)(1) Any person desiring to challenge the results of the election as published in the proclamation shall file a challenge in the circuit court in which the municipality or county is located within thirty (30) days of the date of publication of the proclamation.

(2) Hearings of such matters of litigation shall be advanced on the docket of the courts and disposed of at the earliest feasible time.

History. Acts 1985, No. 871, § 9; A.S.A. 1947, § 13-1247; Acts 1991, No. 765, § 2; 2001, No. 1168, § 2; 2017, No. 533, § 15.

Amendments. The 2017 amendment inserted "for capital improvements or economic development projects" in (a)(1)(A).

14-164-329. Capital improvement bonds — Local sales and use tax — Effective dates for imposition and termination of tax levy.

(a) The levy of a local sales and use tax shall not be effective until after the election has been held and the issuance of bonds has been approved by the voters and the Secretary of the Department of Finance and Administration has been given ninety (90) days' notice.

(b) In order to provide time for the preparations for election set forth in this section and to provide for the accomplishment of the administrative duties of the secretary, the following effective dates are applicable with reference to any such ordinance levying such tax:

(1)(A) If an election challenge is not filed within thirty (30) days of the date of publication of the proclamation of the results of the election, the tax shall become effective on the first day of the first month of the calendar quarter after the expiration of the thirty-day period for challenge and after a minimum of sixty (60) days' notice has been provided by the secretary to sellers unless delayed under subdivision (b)(3) of this section.

(B) A rate change on a purchase from a printed catalog in which the purchaser computed the tax based on local tax rates published in the catalog will be applicable on the first day of a calendar quarter after a minimum of one hundred twenty (120) days' notice by the secretary to the sellers.

(C) For sales and use tax purposes only, a local boundary change will become effective on the first day of a calendar quarter after a minimum of sixty (60) days' notice by the secretary to sellers;

(2) In the event of an election contest, the tax shall be collected as prescribed in subdivision (b)(1) of this section unless enjoined by court order; and

(3)(A) The municipality or county may delay the effective date of the tax.

(B) The delayed effective date shall be specified in the ordinance levying the tax and on the ballot approving the bonds or the tax, except in the event that the tax is replacing an existing tax. In such event, the ballot and the ordinance shall specify that the tax will replace the existing tax and that the effective date of the tax will be the day following the date the existing tax expires.

(C) The delayed effective date shall in any event be the first day of the first month of the calendar quarter.

(D) The effective date shall not be delayed for more than twelve (12) months, unless the tax replaces an existing tax.

(c)(1)(A) If bonds are issued, the tax shall be abolished when there are no bonds outstanding to which such tax collections are pledged as provided in this subchapter.

(B) If bonds have not been issued, the tax shall be abolished when it is determined by a roll call vote of two-thirds (⅔) of all the members elected to the municipality's or county's governing body that the bonds approved by the voters shall not be issued.

(C) Bonds shall not be deemed to be outstanding hereunder if the trustee for the bondholders provides the certificate provided for in subdivision (c)(2)(A) of this section.

(2) In order to provide for the accomplishment of the administrative duties of the secretary and to protect the owners of the bonds, the tax shall be abolished on the first day of the calendar quarter after the expiration of ninety (90) days from the date there is filed with the secretary a written statement signed by the chief executive officer of the municipality or county levying the tax and by the trustee for the bondholders, if a trustee is serving in such capacity, identifying the tax and the bonds, in which either:

(A) The trustee certifies that the trustee has or will have sufficient funds set aside to pay the principal of and interest on the bonds when due at maturity or at redemption before maturity and the municipality or county levying the tax certifies that the tax is not pledged to any other bonds of such municipality or county; or

(B) The municipality or county levying the tax certifies that there are no longer any bonds outstanding payable from tax collections.

(3) In the case of subdivision (c)(2)(B) of this section, there shall be attached to the written statement proof satisfactory to the secretary that there are no longer any bonds outstanding payable from tax collections.

(4) The chief executive officer of the municipality or county shall file the appropriate certificate not later than sixty (60) days after the bonds have been paid in full or funds to make payment in full have been set aside with the trustee.

(d) After one (1) year has elapsed after the effective date of the abolishment of the tax, the Treasurer of State shall remit the balance in any suspense account maintained by the Treasurer of State in connection therewith directly to the municipality or county levying the tax.

History. Acts 1985, No. 871, § 9; A.S.A. 1947, § 13-1247; Acts 1989, No. 497, § 1; 1991, No. 645, § 2; 1993, No. 266, § 8; 1995, No. 101, § 1; 2003, No. 1273, §§ 78-81; 2013, No. 538, § 1; 2019, No. 910, §§ 3383-3386.

A.C.R.C. Notes. Acts 2003, No. 1273, § 1, provided: "Fundamental purpose.

"(a) In order to allow Arkansas to enter into a Streamlined Sales and Use Tax Agreement, Arkansas must simplify and modernize its sales and use tax laws.

"(b) The Streamlined Sales and Use Tax Agreement focuses on improving sales and use tax administration systems for all sellers and for all types of commerce through all of the following:

"(1) State level administration of sales and use tax collections;

"(2) Uniformity in the state and local tax bases;

"(3) Uniformity of major tax base definitions;

"(4) Central, electronic registration system for all member states;

"(5) Simplification of state and local tax rates;

"(6) Uniform sourcing rules for all taxable transactions;

"(7) Simplified administration of exemptions;

"(8) Simplified tax returns;

"(9) Simplification of tax remittances; and

"(10) Protection of consumer privacy.

"(c) The Director of the Department of Finance and Administration may enter into the Streamlined Sales and Use Tax Agreement, as described in subsections (a) and (b) of this section, upon the agreement's going into effect as outlined by that agreement.

"(d)(1) The General Assembly has the authority to establish the parameters of state and local sales and use taxes, including the application, exemptions, limitations, and administration of those taxes.

"(2) The changes to existing law effectuated by this act are intended as an expression of the General Assembly's authority to modify the parameters of state and local sales and use taxes, and the changes are not intended as a revocation or restraint of the power of cities and counties to levy local sales and use taxes.

"(3) It is the intent of the General Assembly that any modifications to the application or administration of local sales and use taxes resulting from this act shall not require the approval of local voters, and that the modifications shall not invalidate existing local sales and use taxes."

Amendments. The 2019 amendment substituted "Secretary of the Department of Finance and Administration" for "Director of the Department of Finance and Administration" in (a); and substituted

"secretary" for "director" throughout the section.

Effective Dates. Acts 2003, No. 1273, § 88 as amended by Acts 2005, No. 2008, § 1 and Acts 2007, No. 180, § 1: Jan. 1, 2008. Effective date clause provided: "It is found and determined by the Eighty-fourth General Assembly that the Streamlined Sales and Use Tax Agreement is necessary in order to stop the loss of sales tax revenue due to the rapid growth of internet sales, to level the playing field between local businesses and out-of-state businesses, and to negate the undue burden on interstate commerce; and that this act is necessary in order for Arkansas to be in compliance with the Streamlined Sales and Use Tax Agreement. Under the Streamlined Sales and Use Tax Agreement, when at least ten (10) states comprising at least twenty percent (20%) of the total population, as determined by the 2000 Federal census, of all states imposing a state sales tax have petitioned for membership and have been found to be in compliance with the requirements of the agreement, the agreement will become effective unless a specific effective date is otherwise given. These contingencies were met and the Streamlined Sales and Use Tax Agreement went into effect on October 1, 2005. Pursuant to the Streamlined Sales and Use Tax Agreement, a state may apply to become a party to the Streamlined Sales and Use Tax Agreement by submitting a petition for membership and certificate of compliance to the governing board. The governing board shall then determine if the petitioning state is in compliance with the Streamlined Sales and Use Tax Agreement. A state is in compliance with the Streamlined Sales and Use Tax Agreement if the effect of the state's laws, rules, regulations, and policies is substantially in compliance with the requirements in the Streamlined Sales and Use Tax Agreement. The petitioning state's proposed date of entry to the Streamlined Sales and Use Tax Agreement shall be on the first day of a calendar quarter. It is anticipated that Arkansas will become a full member of the Streamlined Sales and Use Tax Governing Board on January 1, 2008. In order to allow the Department of Finance and Administration and local businesses additional time to prepare for the changes necessary as the result of this act, all of the sections in this act will become effective on January 1, 2008. Thus, any section of this act with a specific effective date shall have an effective date of January 1, 2008, and not the specific effective date provided in the introductory language to the section, and when no effective date was listed in the section, then the effective date will also be January 1, 2008."

14-164-330. Capital improvement bonds — Local sales and use tax — Notice to Secretary of the Department of Finance and Administration.

As soon as is feasible and no later than ten (10) days following each of the events set forth in the ordinance with reference to the procedure for the adoption or abolition of the local sales and use tax and the effective dates of the action, the clerk shall notify the Secretary of the Department of Finance and Administration of such event.

History. Acts 1985, No. 871, § 9; A.S.A. 1947, § 13-1247; Acts 2003, No. 383, § 1; 2019, No. 910, § 3387.

Amendments. The 2019 amendment substituted "Secretary of the Department of Finance and Administration" for "Director of the Department of Finance and Administration" in the section heading and in the section.

14-164-331. Capital improvement bonds — Local sales and use tax — Alteration of municipal boundaries.

If a municipality in which a local sales and use tax has been imposed in the manner provided for in this subchapter changes or alters its

boundaries, any tax imposed under this subchapter shall be effective in the added territory or abolished in the detached territory on the first day of the first calendar month following the expiration of thirty (30) days from the date that the annexation or detachment becomes effective.

History. Acts 1985, No. 871, § 9; A.S.A. 1947, § 13-1247; Acts 2003, No. 383, § 2.

A.C.R.C. Notes. Acts 2003, No. 1273, § 1, provided: "Fundamental purpose.

"(a) In order to allow Arkansas to enter into a Streamlined Sales and Use Tax Agreement, Arkansas must simplify and modernize its sales and use tax laws.

"(b) The Streamlined Sales and Use Tax Agreement focuses on improving sales and use tax administration systems for all sellers and for all types of commerce through all of the following:

"(1) State level administration of sales and use tax collections;

"(2) Uniformity in the state and local tax bases;

"(3) Uniformity of major tax base definitions;

"(4) Central, electronic registration system for all member states;

"(5) Simplification of state and local tax rates;

"(6) Uniform sourcing rules for all taxable transactions;

"(7) Simplified administration of exemptions;

"(8) Simplified tax returns;

"(9) Simplification of tax remittances; and

"(10) Protection of consumer privacy.

"(c) The Director of the Department of Finance and Administration may enter into the Streamlined Sales and Use Tax Agreement, as described in subsections (a) and (b) of this section, upon the agreement's going into effect as outlined by that agreement.

"(d)(1) The General Assembly has the authority to establish the parameters of state and local sales and use taxes, including the application, exemptions, limitations, and administration of those taxes.

"(2) The changes to existing law effectuated by this act are intended as an expression of the General Assembly's authority to modify the parameters of state and local sales and use taxes, and the changes are not intended as a revocation or restraint of the power of cities and counties to levy local sales and use taxes.

"(3) It is the intent of the General Assembly that any modifications to the application or administration of local sales and use taxes resulting from this act shall not require the approval of local voters, and that the modifications shall not invalidate existing local sales and use taxes."

Because of the changes made to this section by Acts 2003, No. 383, § 2, which became effective July 16, 2003, the amendment by Acts 2003, No. 1273, § 82 cannot be implemented.

Acts 2003, No. 1273, § 82, provided: "(a) If a municipality in which a local sales and use tax has been imposed in the manner provided for in this subchapter thereafter changes or alters its boundaries, the clerk of the municipality, ninety (90) days before the effective date, shall forward to the Director of the Department of Finance and Administration a certified copy of the ordinance annexing or detaching territory from the municipality and a map clearly showing the territory annexed or detached.

"(b) After the receipt of the ordinance and map, any tax imposed under this subchapter shall be effective in the added territory or abolished in the detached territory on the first day of the first month of the calendar quarter following the expiration of thirty (30) days from the date that the annexation or detachment becomes effective and after a minimum of sixty (60) days' notice by the director to sellers."

14-164-333. Capital improvement bonds — Local sales and use tax — Administration, collection, etc.

(a)(1) A sales and use tax levied pursuant to the authority granted by this subchapter shall be administered and collected subject to the

provisions of § 26-74-212 or § 26-75-216, whichever shall be applicable.

(2)(A) The Secretary of the Department of Finance and Administration shall perform all functions incidental to the administration, collection, enforcement, and operation of the tax, as provided in §§ 26-74-201 — 26-74-219, 26-74-221, 26-74-315 — 26-74-317, 26-75-201 — 26-75-221, 26-75-223, 26-75-317, and 26-75-318. Provided, however, to the extent the provisions of § 14-164-329 conflict with any provisions of § 26-74-101 et seq. or § 26-75-101 et seq., or any other law, § 14-164-329 shall be deemed to supersede the conflicting statutes.

(B) The tax levied in this subchapter on new and used motor vehicles shall be collected by the secretary directly from the purchaser in the manner prescribed in § 26-52-510.

(b)(1)(A) In each municipality or county where a local sales and use tax has been imposed in the manner provided in this subchapter, every retailer shall add the tax imposed by the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq., the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq., and the tax imposed by this subchapter to the sale price, and when added, the combined tax shall constitute a part of the price, shall be a debt of the purchaser to the retailer until paid, and shall be recoverable at law in the same manner as the purchase price.

(B) A retailer shall be entitled to a discount with respect to tax remitted under this subchapter as authorized in § 26-52-503.

(2)(A) Any fraction of one cent (1¢) of tax which is less than one-half of one cent (0.5¢) shall not be collected.

(B) Any fraction of one cent (1¢) of tax equal to one-half of one cent (0.5¢) or more shall be collected as a whole cent (1¢) of tax.

(c) In the event the General Assembly or the electors of the state shall either increase or decrease the rate of the state gross receipts tax, the combined rate of the state gross receipts tax and the local sales tax shall be the sum of the two (2) rates.

(d)(1) Each vendor who is liable for one (1) or more city sales or use taxes shall report a combined city sales tax and a combined city use tax on his or her sales and use tax report. The combined city sales tax is equal to the sum of all sales taxes levied by a city under this subchapter or any other provision of the Arkansas Code. The combined city use tax is equal to the sum of all use taxes levied by a city under this subchapter or any other provision of the Arkansas Code. This provision applies only to taxes collected by the secretary.

(2) Each vendor who is liable for one (1) or more county sales or use taxes shall report a combined county sales tax and a combined county use tax on his or her sales and use tax report. The combined county sales tax is equal to the sum of all sales taxes levied by a county under this subchapter or any other provision of the Arkansas Code. The combined county use tax is equal to the sum of all use taxes levied by a county under this subchapter or any other provision of the Arkansas Code. This provision applies only to taxes collected by the secretary.

History. Acts 1985, No. 871, § 9; A.S.A. 1947, § 13-1247; Acts 1995, No. 565, § 21; 1997, No. 1176, § 2; 2003, No. 747, § 1; 2003, No. 1273, §§ 83, 84; 2019, No. 910, §§ 3388, 3389.

A.C.R.C. Notes. Acts 2003, No. 1273, § 1, provided: "Fundamental purpose.

"(a) In order to allow Arkansas to enter into a Streamlined Sales and Use Tax Agreement, Arkansas must simplify and modernize its sales and use tax laws.

"(b) The Streamlined Sales and Use Tax Agreement focuses on improving sales and use tax administration systems for all sellers and for all types of commerce through all of the following:

"(1) State level administration of sales and use tax collections;

"(2) Uniformity in the state and local tax bases;

"(3) Uniformity of major tax base definitions;

"(4) Central, electronic registration system for all member states;

"(5) Simplification of state and local tax rates;

"(6) Uniform sourcing rules for all taxable transactions;

"(7) Simplified administration of exemptions;

"(8) Simplified tax returns;

"(9) Simplification of tax remittances; and

"(10) Protection of consumer privacy.

"(c) The Director of the Department of Finance and Administration may enter into the Streamlined Sales and Use Tax Agreement, as described in subsections (a) and (b) of this section, upon the agreement's going into effect as outlined by that agreement.

"(d)(1) The General Assembly has the authority to establish the parameters of state and local sales and use taxes, including the application, exemptions, limitations, and administration of those taxes.

"(2) The changes to existing law effectuated by this act are intended as an expression of the General Assembly's authority to modify the parameters of state and local sales and use taxes, and the changes are not intended as a revocation or restraint of the power of cities and counties to levy local sales and use taxes.

"(3) It is the intent of the General Assembly that any modifications to the application or administration of local sales and use taxes resulting from this act shall not require the approval of local voters, and that the modifications shall not invalidate existing local sales and use taxes."

Amendments. The 2019 amendment substituted "Secretary of the Department of Finance and Administration" for "Director of the Department of Finance and Administration" in (a)(2)(A); and substituted "secretary" for "director" in (a)(2)(B), (d)(1), and (d)(2).

CASE NOTES

Construction.

City was not entitled to a per capita share of the 1% sales and use tax levied under § 26-73-113 and originally used solely for solid waste management; the City's argument that §§ 26-73-113 and this section incorporated the per capita remittance procedure in § 26-74-214(b)(2)(B)(i) was not supported by the plain language of the relevant statutes and thus the state treasurer was not required to remit the tax to the county and municipalities on a per capita basis. Instead, the state treasurer was always required to remit the tax proceeds directly to the county in accordance with §§ 26-73-113 and 14-164-336(c), irrespective of whether the interlocal agreement was repealed or not. City of Magnolia v. Milligan, 2019 Ark. App. 374, 584 S.W.3d 716 (2019).

This section does not apply to the state treasurer at all; rather, the state treasurer's remittance of the tax levied under § 26-73-113 is addressed in § 14-164-336. Further, § 14-164-336(c)'s reference to the county tax code does not include the per capita remittance procedure in § 26-74-214(b)(2). The plain language of § 14-164-336(c) is directed only to those provisions, such as § 26-74-214(a)(2), that authorize the state treasurer to withhold "charges payable and retainage" from the remitted funds. City of Magnolia v. Milligan, 2019 Ark. App. 374, 584 S.W.3d 716 (2019).

14-164-334. Capital improvement bonds — Local sales and use tax — Single transactions.

(a) Any sales and use tax levied pursuant to this subchapter shall be levied and collected only on the first two thousand five hundred dollars ($2,500) of gross receipts, gross proceeds, or sales price on the sale of:

(1) Motor vehicles;

(2) Aircraft;

(3) Watercraft;

(4) Modular homes;

(5) Manufactured homes; or

(6) Mobile homes.

(b)(1) For any taxpayer not subject to the levy of a use tax on taxable services or tangible personal property brought into the State of Arkansas for storage until the property is subsequently initially used in the State of Arkansas, the use tax portion of the local sales and use tax authorized by this subchapter shall be computed on each purchase of the property by the taxpayer as if all the property was subject upon purchase to the use tax but only on the first two thousand five hundred dollars ($2,500) of gross receipts, gross proceeds, or sales price on the sale of:

(A) Motor vehicles;

(B) Aircraft;

(C) Watercraft;

(D) Modular homes;

(E) Manufactured homes; or

(F) Mobile homes.

(2) The taxes so computed in the preceding sentence shall be aggregated on a monthly basis and the aggregate monthly amount shall be divided by the sum of the total purchases of the property on which the taxes are computed and the quotient shall be multiplied by the amount of the taxpayer's property subsequently initially used and subject to levy of such use tax within the municipality or county during the month for which the monthly aggregate tax figure was computed, and the product shall be the amount of such use tax liability for the taxpayer for the month computed.

History. Acts 1985, No. 871, § 9; A.S.A. 1947, § 13-1247; Acts 1993, No. 669, § 1; 2003, No. 1273, §§ 85, 86.

A.C.R.C. Notes. Acts 2003, No. 1273, § 1, provided: "Fundamental purpose.

"(a) In order to allow Arkansas to enter into a Streamlined Sales and Use Tax Agreement, Arkansas must simplify and modernize its sales and use tax laws.

"(b) The Streamlined Sales and Use Tax Agreement focuses on improving sales and use tax administration systems for all sellers and for all types of commerce through all of the following:

"(1) State level administration of sales and use tax collections;

"(2) Uniformity in the state and local tax bases;

"(3) Uniformity of major tax base definitions;

"(4) Central, electronic registration system for all member states;

"(5) Simplification of state and local tax rates;

"(6) Uniform sourcing rules for all taxable transactions;

"(7) Simplified administration of exemptions;

"(8) Simplified tax returns;

"(9) Simplification of tax remittances; and

"(10) Protection of consumer privacy.

"(c) The Director of the Department of Finance and Administration may enter into the Streamlined Sales and Use Tax Agreement, as described in subsections (a) and (b) of this section, upon the agreement's going into effect as outlined by that agreement.

"(d)(1) The General Assembly has the authority to establish the parameters of state and local sales and use taxes, including the application, exemptions, limitations, and administration of those taxes.

"(2) The changes to existing law effectuated by this act are intended as an expression of the General Assembly's authority to modify the parameters of state and local sales and use taxes, and the changes are not intended as a revocation or restraint of the power of cities and counties to levy local sales and use taxes.

"(3) It is the intent of the General Assembly that any modifications to the application or administration of local sales and use taxes resulting from this act shall not require the approval of local voters, and that the modifications shall not invalidate existing local sales and use taxes."

14-164-336. Local Sales and Use Tax Trust Fund.

(a) There is created a trust fund for the remittance of local sales and use taxes collected under this subchapter which shall be known as "the Local Sales and Use Tax Trust Fund," which trust fund shall be held apart from the State Treasury by the Treasurer of State and shall be administered by the Treasurer of State as provided in this section, in addition to other duties of the Treasurer of State prescribed by law.

(b) The Treasurer of State shall not deposit any such moneys into the State Treasury or into general revenues, but shall hold such moneys apart, in trust, and shall deposit such moneys as cash funds into the Local Sales and Use Tax Trust Fund established by this subchapter.

(c) The Treasurer of State shall transmit monthly to the treasurer of the municipality or county, as the case may be, or in the alternative, to a bank or other depository designated by the municipality or county, the moneys of the municipality or county held in the Local Sales and Use Tax Trust Fund established by this subchapter, subject to the charges payable and retainage authorized by §§ 26-74-201 — 26-74-219, 26-74-221, 26-74-315 — 26-74-317, 26-75-201 — 26-75-221, 26-75-223, 26-75-317, 26-75-318, and the Local Sales and Use Tax Economic Development Project Funding Act, § 26-82-101 et seq.

(d)(1) With the exception of revenue derived from taxes under subdivision (d)(2) of this section, revenue derived from a tax on aviation fuel by a city or county where a regional airport, as described by the Regional Airport Act, § 14-362-101 et seq., is located shall be remitted by the Treasurer of State directly to the regional airport located within the levying city or county.

(2) Revenue derived from a tax on aviation fuel in effect on December 30, 1987, is not subject to this section.

History. Acts 1985, No. 871, § 9; A.S.A. 1947, § 13-1247; Acts 2007, No. 166, § 1; 2011, No. 828, § 2.

CASE NOTES

Construction.

City was not entitled to a per capita share of the 1% sales and use tax levied under § 26-73-113 and originally used solely for solid waste management; the City's argument that §§ 26-73-113 and 14-164-333 incorporated the per capita remittance procedure in § 26-74-214(b)(2)(B)(i) was not supported by the plain language of the relevant statutes and thus the state treasurer was not required to remit the tax to the county and municipalities on a per capita basis. Instead, the state treasurer was always required to remit the tax proceeds directly to the county in accordance with §§ 26-73-113 and subsection (c) of this section, irrespective of whether the interlocal agreement was repealed or not. City of Magnolia v. Milligan, 2019 Ark. App. 374, 584 S.W.3d 716 (2019).

Section 14-164-333 does not apply to the state treasurer at all; rather, the state treasurer's remittance of the tax levied under § 26-73-113 is addressed in this section. Further, the reference in subsection (c) of this section to the county tax code does not include the per capita remittance procedure in § 26-74-214(b)(2). The plain language of subsection (c) of this section is directed only to those provisions, such as § 26-74-214(a)(2), that authorize the state treasurer to withhold "charges payable and retainage" from the remitted funds. City of Magnolia v. Milligan, 2019 Ark. App. 374, 584 S.W.3d 716 (2019).

14-164-337. Pledge of preexisting sales and use tax.

(a) In any municipality or county which has in effect the levy of a local sales and use tax, the legislative body may, by ordinance, pledge all or a specified portion of the existing tax to retire its bonds as provided in this subchapter.

(b)(1) No pledge of an existing local sales and use tax levy shall be effective unless the issuance of bonds has been approved by the voters of the municipality or county issuing the bonds at an election as provided in § 14-164-328.

(2)(A) The ballot form in an election to issue bonds secured by the pledge of an existing local sales and use tax levy shall be limited to the question or questions concerning the proposed bonds and shall not resubmit the levy of the tax.

(B) The ballot shall contain a statement that the existing sales and use tax shall be pledged to the retirement of the bonds.

(c)(1) In any county which has in effect a county local sales and use tax, a municipality therein may, by ordinance, pledge all or any portion of such tax to which the municipality is entitled to receive to retire bonds of the municipality issued under this subchapter.

(2) As long as any bonds so authorized and issued are outstanding, the local sales and use tax shall continue to be levied and collected in such municipality until the bonds are retired, notwithstanding the repeal or abolishment of such countywide tax.

(d)(1) In any county which has in effect a county local sales and use tax, a municipality therein may, by ordinance, pledge all or a portion of its share of the county tax to retire bonds of the county issued under this subchapter.

(2) All such amounts pledged shall be used by the county as its funds to the extent necessary to pay debt service on such bonds and, if not so

necessary, shall be transferred by or on behalf of the county to the municipality.

(e) In any municipality or county in which an existing local sales and use tax is pledged to secure the payment of bonds authorized by this subchapter, that portion of the tax pledged to secure the payment of bonds shall not be repealed, abolished, or reduced so long as any of such bonds are outstanding.

(f)(1) Any moneys collected which, as indicated by a certified copy of an ordinance of the municipality or county previously filed with the Secretary of the Department of Finance and Administration and the Treasurer of State, are pledged, under the provisions of any act, to secure the retirement of bonds authorized by this subchapter, shall be transmitted by the secretary to the Treasurer of State.

(2) The Treasurer of State shall not deposit any such moneys into the State Treasury or into general revenues, but shall hold such moneys apart, in trust, and shall deposit such moneys as cash funds into the Local Sales and Use Tax Trust Fund established by this subchapter.

(3) The Treasurer of State shall transmit monthly to the treasurer of the municipality or county, as the case may be, or, in the alternative, to a bank or other depository designated by the municipality or county, the moneys of the municipality or county held in the Local Sales and Use Tax Trust Fund established by this subchapter, subject to the charges payable and retainage authorized by §§ 26-74-201 — 26-74-219, 26-74-221, 26-74-315 — 26-74-317, 26-75-201 — 26-75-221, 26-75-223, 26-75-317, 26-75-318, and the Local Sales and Use Tax Economic Development Project Funding Act, § 26-82-101 et seq.

(4)(A) Upon receipt of a written statement signed by the trustee for the bondholders that the trustee has or will have set aside sufficient funds to pay when due at maturity or at redemption prior to maturity the principal of and interest on the bonds to which such tax has been pledged.

(B) If no trustee is serving in such capacity, a written statement signed by the municipality or county pledging the tax or by the municipality or county issuing the bonds, or both, to the effect that the bonds to which the tax is pledged have been fully paid and are no longer outstanding, the Treasurer of State shall make payments directly to the treasurer of the municipality or county and the pledge of the tax shall cease.

History. Acts 1985, No. 871, § 10; A.S.A. 1947, § 13-1248; Acts 1989, No. 497, § 2; 1991, No. 765, § 3; 1997, No. 1176, § 3; 1999, No. 1137, § 2; 2003, No. 1273, § 87; 2011, No. 828, § 3; 2019, No. 910, § 3390.

A.C.R.C. Notes. Acts 2003, No. 1273, § 1, provided: "Fundamental purpose.

"(a) In order to allow Arkansas to enter into a Streamlined Sales and Use Tax Agreement, Arkansas must simplify and modernize its sales and use tax laws.

"(b) The Streamlined Sales and Use Tax Agreement focuses on improving sales and use tax administration systems for all sellers and for all types of commerce through all of the following:

"(1) State level administration of sales and use tax collections;

"(2) Uniformity in the state and local tax bases;

"(3) Uniformity of major tax base definitions;

"(4) Central, electronic registration system for all member states;

"(5) Simplification of state and local tax rates;

"(6) Uniform sourcing rules for all taxable transactions;

"(7) Simplified administration of exemptions;

"(8) Simplified tax returns;

"(9) Simplification of tax remittances; and

"(10) Protection of consumer privacy.

"(c) The Director of the Department of Finance and Administration may enter into the Streamlined Sales and Use Tax Agreement, as described in subsections (a) and (b) of this section, upon the agreement's going into effect as outlined by that agreement.

"(d)(1) The General Assembly has the authority to establish the parameters of state and local sales and use taxes, including the application, exemptions, limitations, and administration of those taxes.

"(2) The changes to existing law effectuated by this act are intended as an expression of the General Assembly's authority to modify the parameters of state and local sales and use taxes, and the changes are not intended as a revocation or restraint of the power of cities and counties to levy local sales and use taxes.

"(3) It is the intent of the General Assembly that any modifications to the application or administration of local sales and use taxes resulting from this act shall not require the approval of local voters, and that the modifications shall not invalidate existing local sales and use taxes."

Publisher's Notes. Act 1999, No. 1137, § 8, provided: "It is the express intent of the General Assembly that this act be applied retroactively to any city or county ordinance adopted after January 1, 1998, as it is remedial and procedural in nature."

Amendments. The 2019 amendment, in (f)(1), substituted "Secretary of the Department of Finance and Administration" for "Director of the Department of Finance and Administration" and "secretary" for "director".

14-164-338. Alternative to issuance of bonds.

(a) If a legislative body determines that a sales and use tax of one percent (1%) or less authorized by § 14-164-327 would, if levied for no longer than twenty-four (24) months, produce sufficient revenue to finance capital improvements of a public nature without resorting to a bond issue, the legislative body may dispense with the issuance of bonds, levy the tax for no longer than twenty-four (24) months, and appropriate the resulting revenues, subject to Arkansas Constitution, Article 12, § 4, paragraphs 2-4, provided:

(1) A majority of the qualified electors of the county or municipality voting on the question at a general or special election shall have approved the tax and the purpose of the capital improvements; and

(2) The revenues from the tax are expended solely for the purpose authorized by the electorate.

(b) The portion of the tax authorized by § 14-164-327 which is not utilized under this section may be used as otherwise provided in this subchapter.

(c) This section does not preclude or affect the ability of a municipality or county to levy a sales and use tax beyond the twenty-four-month period, unless so restricted on the ballot, or for less than the twenty-four-month period, if stated on the ballot, under § 26-74-201 et seq., §§ 26-74-301 — 26-74-319, § 26-75-201 et seq., §§ 26-75-301 — 26-75-318, and the Local Sales and Use Tax Economic Development Project Funding Act, § 26-82-101 et seq., and use all or a portion of the proceeds to finance capital improvements of a public nature, with or without issuing bonds and with or without an election approving the use of the tax collections for capital improvements.

(d) This section does not limit the authority of municipalities and counties to levy taxes for twenty-four (24) months only under § 26-74-201 et seq., §§ 26-74-301 — 26-74-319, § 26-75-201 et seq., §§ 26-75-301 — 26-75-318, and the Local Sales and Use Tax Economic Development Project Funding Act, § 26-82-101 et seq., and use the proceeds to finance capital improvements, and the General Assembly determines that § 26-74-201 et seq., §§ 26-74-301 — 26-74-319, § 26-75-201 et seq., §§ 26-75-301 — 26-75-318, and the Local Sales and Use Tax Economic Development Project Funding Act, § 26-82-101 et seq., each provide for the levy of up to a one percent (1%) sales and use tax and the use for any purpose for which the general funds of the municipality or county may be used unless restricted on the ballot to a specified purpose.

(e) The revenues derived from this tax may also be used to retire existing bonds issued for the acquisition, renovation, or construction of capital improvements.

History. Acts 1988 (4th Ex. Sess.), No. 25, § 1; 1989, No. 458, § 1; 1991, No. 765, § 4; 1992 (1st Ex. Sess.), No. 36, § 1; 1993, No. 1014, § 1; 1999, No. 1324, § 1; 2011, No. 828, § 4.

A.C.R.C. Notes. Acts 1999, No. 1324, § 1(b) provided: "The provisions of this act shall expire on December 31, 2000, and until that time this act supercedes § 14-164-338(a)."

14-164-339. Simultaneous pledge of local sales and use tax.

(a)(1) A municipality levying a local sales and use tax under § 26-73-113, § 26-75-201 et seq., or § 26-75-301 et seq. may pledge, simultaneously with the levy, all or a specified portion of the tax to retire bonds for capital improvements or economic development projects.

(2) The ballot form in a municipal election to levy a local sales and use tax pursuant to the provisions of § 26-75-208, § 26-75-308, or § 26-73-113 and to simultaneously pledge all or a specified portion of such tax to retire bonds as provided in this subchapter shall be headed with the question of approval or disapproval of such tax and shall be followed by the question or questions of the issuance of the bonds.

(3)(A) The question or questions of the issuance of bonds shall also contain a statement describing the extent to which the tax, if

approved, may be pledged to retire the bonds which are approved by the voters of the municipality.

(B) The local sales and use tax or taxes authorized in § 14-164-327 may also be pledged to bonds approved pursuant to this section, and in such case, the question or questions of the issuance of the bonds shall contain a statement to that effect.

(4) The election shall be conducted as provided in § 14-164-309, and the bonds shall be authorized, issued, and secured as provided in this subchapter.

(b)(1) A county levying a local sales and use tax under § 26-73-113, § 26-74-201 et seq., § 26-74-301 et seq., or § 26-74-401 et seq. may pledge, simultaneously with the levy, all or a specified portion of the tax to retire bonds for capital improvements or economic development projects.

(2) The ballot form in a county election to levy a local sales and use tax pursuant to the provisions of § 26-74-208, § 26-74-308, § 26-74-403, or § 26-73-113 and to simultaneously pledge all or a specified portion of its share of such tax to retire bonds as provided in this subchapter shall be headed with the question of approval or disapproval of such tax and shall be followed by the question or questions of the issuance of the bonds.

(3)(A) The question or questions of the issuance of bonds shall also contain a statement describing the extent to which the tax, if approved, may be pledged to retire the bonds, which are approved by the voters of the county.

(B) The local sales and use tax or taxes authorized in § 14-164-327 may also be pledged to bonds approved pursuant to this section, and in such case, the question or questions of the issuance of the bonds shall contain a statement to that effect.

(4) The election shall be conducted as provided in § 14-164-309, and the bonds shall be authorized, issued, and secured as provided in this subchapter.

(c) In any municipality or county in which a local sales and use tax is adopted pursuant to § 26-75-201 et seq., § 26-75-301 et seq., §§ 26-74-201 — 26-74-220, § 26-74-301 et seq., § 26-74-401 et seq., or § 26-73-113, respectively, and pledged to secure the payment of bonds as authorized by this subchapter, that portion of the tax pledged to secure the payment of bonds shall not be repealed, abolished, or reduced so long as any of such bonds are outstanding.

(d) In any municipality or county in which a local sales and use tax is approved and the issuance of bonds disapproved in an election held pursuant to subsection (a) or subsection (b) of this section, revenues derived from such local sales and use tax may be utilized by the municipality or county for any valid governmental purpose.

(e)(1) Any moneys collected which, as indicated by a certified copy of an ordinance of the municipality or county previously filed with the Secretary of the Department of Finance and Administration and the Treasurer of State, are pledged, under the provisions of any act, to

secure the retirement of bonds authorized by this subchapter, shall be transmitted by the secretary to the Treasurer of State.

(2) The Treasurer of State shall not deposit any such moneys into the State Treasury or into general revenues, but shall hold such moneys apart in trust and shall deposit such moneys as cash funds into the Local Sales and Use Tax Trust Fund established by this subchapter.

(3) The Treasurer of State shall transmit monthly to the treasurer of the municipality or county, as the case may be, or in the alternative, to a bank or other depository designated by the municipality or county, the moneys of the municipality or county held in the Local Sales and Use Tax Trust Fund established by this subchapter, subject to the charges payable and retainage authorized by §§ 26-74-201 — 26-74-219, 26-74-221, 26-74-315 — 26-74-317, 26-74-409, 26-74-413, 26-75-201 — 26-75-221, 26-75-223, 26-75-317, 26-75-318, and the Local Sales and Use Tax Economic Development Project Funding Act, § 26-82-101 et seq.

History. Acts 1991, No. 646, § 3; 2001, No. 1168, § 3; 2011, No. 828, § 5; 2017, No. 533, §§ 16, 17; 2019, No. 910, § 3391.

Amendments. The 2017 amendment substituted "capital improvements or economic development projects" for "the purposes set forth in § 14-164-303(2)" in (a)(1) and (b)(1); and made stylistic changes.

The 2019 amendment, in (e)(1), substituted "Secretary of the Department of Finance and Administration" for "Director of the Department of Finance and Administration" and "secretary" for "director".

14-164-340. Alternative to issuance of bonds — Criminal justice projects — Definition.

(a) In addition to the options provided for by § 14-164-338 for financing capital improvements of a public nature, if a legislative body determines that a sales and use tax of one percent (1%) or less authorized by § 14-164-327 would, if levied for no longer than thirty-six (36) months, produce sufficient revenue to finance capital improvements for criminal justice purposes without resorting to a bond issue, the legislative body may dispense with the issuance of bonds, levy the tax for no longer than the thirty-six-month period, and appropriate the resulting revenues, subject to Arkansas Constitution, Article 12, § 4, provided that:

(1) A majority of the qualified electors of the county or municipality voting on the question at a general or special election shall have approved the tax and the projects of capital improvements for criminal justice purposes; and

(2) The revenues from the tax are expended solely for the projects authorized by the electorate.

(b) Under this section, the term "capital improvements for criminal justice purposes" means, whether obtained by purchase, lease, construction, reconstruction, restoration, improvement, alteration, repair, or other means, any physical public facility, betterment, or improvement with the purpose of furthering or promoting law enforcement or the apprehension, prosecution, probation, rehabilitation, or detention of any criminals, accused defendants, suspects, or juvenile detainees,

and any preliminary plans, studies, or surveys relative thereto; land or rights in land, including, without limitations, leases, air rights, easements, rights-of-way, or licenses; and any furnishings, machinery, vehicles, apparatus, or equipment for any such public facility or betterment or improvement, which shall include, but is not limited to, the following: any and all facilities for city or town halls, courthouses and other administrative, executive, or other public offices for law enforcement officials or agencies; court facilities; jails; police stations and sheriffs' offices; police precincts or sheriffs' stations or substations; law enforcement training facilities; probation or parole offices and facilities; alternative learning centers; county and municipal criminal detention and correctional facilities; and juvenile detention facilities.

(c) The portion of the tax authorized by § 14-164-327 which is not utilized under this section may be used as otherwise provided in this subchapter.

(d) This section does not preclude or affect the ability of a municipality or county to levy a sales and use tax beyond the thirty-six-month period, unless so restricted on the ballot, or for less than the thirty-six-month period, if stated on the ballot, under § 26-74-201 et seq., §§ 26-74-301 — 26-74-319, § 26-75-201 et seq., §§ 26-75-301 — 26-75-318, and the Local Sales and Use Tax Economic Development Project Funding Act, § 26-82-101 et seq., and use all or a portion of the proceeds to finance capital improvements for criminal justice purposes, with or without issuing bonds and with or without an election approving the use of the tax collections for capital improvements.

(e)(1) This section does not limit the authority of municipalities and counties to levy taxes for thirty-six (36) months or less only under § 26-74-201 et seq., §§ 26-74-301 — 26-74-319, § 26-75-201 et seq., §§ 26-75-301 — 26-75-318, and the Local Sales and Use Tax Economic Development Project Funding Act, § 26-82-101 et seq., and use the proceeds to finance capital improvements, and the General Assembly determines that § 26-74-201 et seq., §§ 26-74-301 — 26-74-319, § 26-75-201 et seq., §§ 26-75-301 — 26-75-318, and the Local Sales and Use Tax Economic Development Project Funding Act, § 26-82-101 et seq., each provide for the levy of up to a one percent (1%) sales and use tax and the use thereof for any purpose for which the general funds of the municipality or county may be used unless restricted on the ballot to a specified purpose.

(2) This section is intended to supplement all other laws which are designed to finance capital improvements for county and municipal governments and, when applicable in accordance with the provisions of this section, may be used by a county or a municipality as an alternative to financing capital improvements for criminal justice purposes.

(f) The revenues derived from this tax may also be used to retire existing bonds issued for the acquisition, renovation, or construction of capital improvements for criminal justice purposes.

(g) The revenues derived from this tax may also be used to establish a trust fund whose income would provide operating funds for the same purposes enumerated above in subsection (b) of this section.

(h)(1) The purpose of this section is to authorize an extension of the tax authorized by § 14-164-327 for an additional period of twelve (12) months.

(2) This section shall not be construed to authorize the imposition of any tax in addition to that authorized by § 14-164-327.

History. Acts 1994 (2nd Ex. Sess.), No. 64, § 1; 2011, No. 828, § 6.

14-164-341. Bonds for surface transportation projects.

(a) The governing body of a municipality or county may pledge by ordinance all or a specified portion of the municipality's or county's share of collections of the temporary one-half percent (½%) sales and use tax levied under Arkansas Constitution, Amendment 91, to retire bonds issued for a surface transportation project.

(b)(1) An ordinance pledging revenues under subsection (a) of this section is not effective unless the issuance of the bonds is approved by a majority of the electors of the municipality or county voting on the question at an election that is held substantially in the manner provided under § 14-164-309.

(2) The ballot form in an election to issue bonds secured by the pledge of revenues under subsection (a) of this section shall contain a statement describing the extent to which the municipality's or county's share of collections of the temporary one-half percent (½%) sales and use tax levied under Arkansas Constitution, Amendment 91, may be pledged to the retirement of the bonds issued for the surface transportation project if the bonds are approved by the voters of the municipality or county.

(c) Bonds issued under this section shall not have a final maturity date later than July 1, 2023.

(d) A certified copy of the ordinance authorizing the issuance of bonds under this section shall be filed with the Secretary of the Department of Finance and Administration and the Treasurer of State as soon as practicable after the approval of the issuance of the bonds by the voters.

(e)(1) If a municipality or county has filed an ordinance with the Treasurer of State under subsection (d) of this section and the municipality's or county's share of collections of the temporary one-half percent (½%) sales and use tax levied under Arkansas Constitution, Amendment 91, is to be distributed to the municipality or county from the Municipal Aid Fund or the County Aid Fund, the Treasurer of State shall separately identify the amount of funds to be distributed to the municipality or county under Arkansas Constitution, Amendment 91.

(2) If a municipality or county has filed an ordinance with the Treasurer of State under subsection (d) of this section, the municipality or county may elect to have the funds identified by the Treasurer of State under subdivision (e)(1) of this section distributed to the bank or other depository designated in the ordinance.

(3)(A) If a municipality or county elects to have funds distributed to a bank or other depository under subdivision (e)(2) of this section, the

amount identified by the Treasurer of State under subdivision (e)(1) of this section shall be distributed to the bank or other depository designated in the ordinance rather than being distributed to the municipality or county.

(B) The distribution under subdivision (e)(3)(A) of this section shall continue until the municipality or county files a signed statement with the Treasurer of State to the effect that the bonds to which the funds identified under subdivision (e)(1) of this section are pledged have been fully paid and are no longer outstanding.

History. Acts 2013, No. 1241, § 3; 2019, No. 910, § 3392.

Amendments. The 2019 amendment substituted "Secretary of the Department of Finance and Administration" for "Director of the Department of Finance and Administration" in (d).

14-164-342. Net casino gaming receipts tax bonds.

(a) The governing body of a municipality or county may pledge by ordinance all or a specified portion of the municipality's or county's share of collections of the net casino gaming receipts tax levied under The Arkansas Casino Gaming Amendment of 2018, Arkansas Constitution, Amendment 100, to retire bonds issued for capital improvements or economic development projects.

(b)(1) An ordinance pledging revenues under subsection (a) of this section is not effective unless the issuance of the bonds is approved by a majority of the electors of the municipality or county voting on the question at an election that is held substantially in the manner provided under § 14-164-309.

(2) The ballot form in an election to issue bonds secured by the pledge of revenues under subsection (a) of this section shall contain a statement describing the extent to which the municipality's or county's share of collections of the net casino gaming receipts tax levied under The Arkansas Casino Gaming Amendment of 2018, Arkansas Constitution, Amendment 100, may be pledged to the retirement of the bonds, if the bonds are approved by the voters of the municipality or county.

(c) A certified copy of the ordinance authorizing the issuance of bonds under this section shall be filed with the Secretary of the Department of Finance and Administration and the Treasurer of State as soon as practicable after the approval of the adoption of the ordinance under this section.

(d)(1) If a municipality or county has filed an ordinance with the Treasurer of State under subsection (c) of this section, the municipality or county may elect to have its share of collections of the net casino gaming receipts tax levied under The Arkansas Casino Gaming Amendment of 2018, Arkansas Constitution, Amendment 100, distributed to a bank or other depository designated in the ordinance adopted under this section.

(2)(A) If a municipality or county elects to have funds distributed to a bank or other depository under subdivision (d)(1) of this section, the net casino gaming receipts tax levied under The Arkansas Casino

Gaming Amendment of 2018, Arkansas Constitution, Amendment 100, shall be distributed to the bank or other depository designated in the ordinance rather than to the municipality or county.

(B) The distribution under subdivision (d)(2)(A) of this section shall continue until the municipality or county files a signed statement with the Treasurer of State to the effect that the bonds to which the net casino gaming receipts tax levied under The Arkansas Casino Gaming Amendment of 2018, Arkansas Constitution, Amendment 100, is pledged have been fully paid or are no longer outstanding.

History. Acts 2019, No. 703, § 2.

Subchapter 4 — Local Government Capital Improvement Revenue Bond Act

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Effective Dates. Acts 2005, No. 1551, § 8: Apr. 5, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the ability of local entities to issue bonds is an important component to the state economy; that laws concerning local capital improvement bonds are in need of immediate clarification in order to allow cities and counties to properly issue bonds for the benefit of the city, county, and state. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2005, No. 1980, § 5: Apr. 11, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that there is currently an energy crisis that threatens the economy of the State of Arkansas; that this poses an immediate and future peril to the health, safety, and welfare of its people; that the energy crisis is due to many factors, including, but not limited to, inefficiencies in the production of energy within the State of Arkansas, the decline in supplies of petroleum, natural gas, and other energy sources, increases in population, and the demand for natural resources; that the energy crisis will be perpetuated by a continued dependence on depletable energy resources that are subject to rapid increases in price and uncertain availability and by the wasteful and inefficient use of available energy supplies; that the energy crisis has adversely affected the growth and stability of agriculture, commerce, and industry within the State of Arkansas; that it is the responsibility of the State of Arkansas to encourage energy conservation and efficiency in order to alleviate the undesirable social and economic conditions created by the energy crisis; that the availability of financing for energy efficient facilities on favorable terms is necessary; and that this act is immediately necessary so facilities may be financed, projects accomplished, and the resulting public benefits realized. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by

the Governor and the veto is overridden, the date the last house overrides the veto."

14-164-402. Definitions.

As used in this subchapter:

(1) "Bonds" means revenue bonds issued pursuant to this subchapter;

(2) "Capital improvements" means any of the following:

(A) City or town halls, courthouses, and administrative, executive, or other public offices;

(B) Court facilities;

(C) Jails;

(D) Police and sheriff stations, apparatus, and facilities;

(E) Firefighting facilities and apparatus;

(F) Public health facilities and apparatus;

(G) Hospitals, homes, and facilities;

(H) Facilities for nonprofit organizations engaged primarily in:

(i) Any of the following:

(a) Public health;

(b) Health systems support;

(c) Safety; or

(d) Disaster relief; and

(ii) Related activities;

(I) Residential housing for low and moderate income, elderly, or individuals with disabilities and families;

(J) Parking facilities and garages;

(K) Educational and training facilities for public employees;

(L) Auditoriums;

(M) Stadiums and arenas;

(N) Convention, meeting, or entertainment facilities;

(O) Ambulance and other emergency medical service facilities;

(P) Civil defense or early warning facilities and apparatus;

(Q) Air and water pollution control facilities;

(R) Drainage and flood control facilities;

(S) Storm sewers;

(T) Arts and crafts centers;

(U) Museums;

(V) Libraries;

(W) Public parks, playgrounds, or other public open space;

(X) Marinas;

(Y) Swimming pools, tennis courts, golf courses, camping facilities, gymnasiums, and other recreational facilities;

(Z) Tourist information and assistance centers;

(AA) Historical, cultural, natural, or folklore sites;

(BB) Fair and exhibition facilities;

(CC) Streets and street lighting, alleys, sidewalks, roads, bridges, and viaducts;

(DD) Airports, passenger or freight terminals, hangars, and related facilities;

(EE) Barge terminals, ports, harbors, ferries, wharves, docks, and similar marine services;

(FF) Slack water harbors, water resource facilities, waterfront development facilities, and navigational facilities;

(GG) Public transportation facilities;

(HH) Public water systems and related transmission and distribution facilities, storage facilities, wells, impounding reservoirs, treatment plants, lakes, dams, watercourses, and water rights;

(II) Sewage collection systems and treatment plants;

(JJ) Maintenance and storage buildings and facilities;

(KK) Incinerators;

(LL) Garbage and solid waste collection disposal, compacting, and recycling facilities of every kind;

(MM) Gas and electric generation, transmission, and distribution systems, including, without limiting the generality of the foregoing, hydroelectric generating facilities, dams, powerhouses, and related facilities;

(NN) Social and rehabilitative service facilities;

(OO) Animal control facilities and apparatus;

(PP) Communication facilities and apparatus; and

(QQ) Facilities and apparatus for voice, data, broadband, video, or wireless telecommunications services;

(3) "Chief executive" means the mayor of a municipality or the county judge of a county;

(4) "Clerk" means the clerk or recorder of a municipality or county clerk of a county;

(5) "County" means any county in the State of Arkansas;

(6) "Efficiency savings" means the savings in operational cost realized by the issuer as a result of a performance-based efficiency project, which are capable of being verified by comparing the applicable project's annual operational cost after the implementation, construction, and installation of the performance-based efficiency project with:

(A) The applicable project's actual annual operational cost before the implementation, construction, and installation of the performance-based efficiency project; or

(B) In the case of a new performance-based efficiency project, the applicable project's projected annual operational cost without the implementation, construction, and installation of the performance-based efficiency project as determined by a professional engineer defined in § 17-30-101 who is not affiliated or associated with the qualified efficiency engineering company;

(7) "Issuer" means a municipality or a county;

(8) "Legislative body" means the quorum court of a county or the council, board of directors, board of commissioners, or similar elected governing body of a city or town;

(9) "Municipality" means any city or incorporated town in the State of Arkansas;

(10) "Operational cost" means any expenditure by an issuer for the operation of a project, including, but not limited to, utility costs, maintenance costs, payments required for third-party services, service contracts, including, but not limited to, commodities purchase contracts, labor costs, equipment costs, and material costs;

(11) "Ordinance" means an ordinance, resolution, or other appropriate legislative enactment of a legislative body;

(12) "Performance-based efficiency project" means:

(A) A new facility that is designed to reduce the consumption of energy or natural resources or results in operating cost savings as a result of changes that:

(i) Do not degrade the level of service or working conditions;

(ii) Are measurable and verifiable under the International Performance Measurement and Verification Protocol, promulgated by the Arkansas Pollution Control and Ecology Commission in the rules required under § 19-11-1207; and

(iii) Are measured and verified by an audit performed by an independent engineer or by a qualified efficiency engineering company, including the vendor providing the performance-based efficiency project; or

(B) An existing facility alteration that is designed to reduce the consumption of energy or natural resources or result in operating cost savings as a result of changes that conform with subdivisions (12)(A)(i) and (ii) of this section;

(13) "Project" means all, any combination, or any part of the capital improvements defined in subdivision (2) of this section;

(14) "Project revenues" means revenues derived from the capital improvements financed, in whole or in part, with the proceeds of bonds issued under this subchapter;

(15) "Qualified efficiency contract" means a contract for the implementation of one (1) or more performance-based efficiency projects and services provided by a qualified efficiency engineering company in which the energy and cost savings achieved by the installed performance-based efficiency project cover all performance-based efficiency project costs, including financing, over a specified contract term;

(16) "Qualified efficiency engineering company" means a person or business, including all subcontractors and employees of that person or business and third-party financing companies, that:

(A) Is properly licensed in the State of Arkansas;

(B) Has been reviewed and certified as a qualified efficiency engineering company under this subchapter;

(C) Is experienced in the design, implementation, measurement, verification, and installation of energy cost savings measures;

(D) Has at least five (5) years of experience in the analysis, design, implementation, installation, measurement, and verification of energy efficiency and facility improvements;

(E) Has the ability to arrange or provide the necessary financing to support a qualified efficiency contract; and

(F) Has the ability to perform under a contract that requires the person or business to guarantee the work performed by one (1) or more subcontractors;

(17) "Revenue bonds" means all bonds, notes, certificates or other instruments or evidences of indebtedness the repayment of which is secured by user fees, charges or other revenues other than assessments for local improvements and taxes:

(A) Derived from the project, or improvements financed in whole or in part by such bonds, notes, certificates or other instruments or evidences of indebtedness;

(B) From the operations of any government unit; or

(C) From any other special fund or source other than assessments for local improvements and taxes; and

(18) "Revenues" means project revenues or any other special fund or source other than taxes or assessments for local improvements including, without limitation, any acquired with bond proceeds and the revenues to be derived from them, and any other user fees, charges or revenues derived from the operations of any municipality or county and any agency, board, commission, or instrumentality.

History. Acts 1985, No. 974, § 2; A.S.A. 1947, § 13-1262; Acts 1987, No. 58, § 1; 1987, No. 369, § 1; 1997, No. 208, § 12; 1997, No. 1130, § 1; 2005, No. 1551, § 7; 2005, No. 1980, § 1; 2011, No. 897, § 11; 2019, No. 383, §§ 18, 19; 2019, No. 703, § 3; 2019, No. 1090, §§ 1-3.

A.C.R.C. Notes. Acts 1997, No. 208, § 1, as reenacted by Acts 2017, No. 255, § 1, provided: "Legislative intent and purpose. The General Assembly hereby acknowledges that many of the laws relating to individuals with disabilities are antiquated, functionally outmoded, derogatory, and ambiguous or are inconsistent with more recently enacted provisions of the law. Consequently, it is the intent of the General Assembly and the purpose of this act to clarify the relevant chapters of Titles 1, 6, 9, 13, 14, 16, 17, 20, 22, 23, and 27 of the Arkansas Code of 1987 Annotated."

The International Performance Measurement and Verification Protocol is a product of IPMV, Inc., a nonprofit organization.

Amendments. The 2019 amendment by No. 383 deleted the (2)(A)(i) through (2)(A)(iii) designations; and added the introductory language of (2)(H)(i).

The 2019 amendment by No. 703 added (2)(QQ).

The 2019 amendment by No. 1090 rewrote (12), (15), and (16).

CASE NOTES

Cited: Bd. of Trs. of the Ark. Pub. Emples. Ret. Sys. v. Garrison, 2019 Ark. App. 245, 576 S.W.3d 485 (2019).

14-164-405. Bonds — Issuance generally.

(a) Municipalities and counties are authorized to issue bonds for capital improvements and performance-based efficiency projects within, near, or within and near the municipality or county. These bonds shall be issued pursuant to an ordinance adopted by the legislative body specifying the principal amount of bonds to be issued,

the purpose or purposes for which the bonds are to be issued, and provisions with respect to the bonds.

(b) If determined to be in the interest of the municipality or county, a portion of the bonds may be used to finance a project or a performance-based efficiency project, and expenses in connection with the issuance of the bonds and a major portion of the proceeds may be invested in consideration of a contract for the full term of the bonds or a shorter period at a rate or rates at least sufficient to provide for, alone or with other revenues that may be pledged, debt service for the bonds.

History. Acts 1985, No. 974, § 3; A.S.A. 1947, § 13-1263; Acts 1987, No. 58, § 2; 2005, No. 1980, § 2; 2009, No. 545, § 1.

CASE NOTES

Cited: Bd. of Trs. of the Ark. Pub. Emples. Ret. Sys. v. Garrison, 2019 Ark. App. 245, 576 S.W.3d 485 (2019).

14-164-418. Refunding bonds.

(a) Bonds may be issued under this subchapter to refund any outstanding bonds issued pursuant to this subchapter or to refund any outstanding bonds, whether revenue bonds or not, issued pursuant to any other law for the purpose of financing capital improvements or a performance-based efficiency project.

(b)(1) The refunding bonds may be either sold for cash or delivered in exchange for the outstanding obligations.

(2) If sold for cash, the proceeds may be either applied to the payment of the obligations refunded or deposited in irrevocable trust for the retirement thereof either at maturity or on an authorized redemption date.

(c) Refunding bonds shall in all respects be authorized, issued, and secured in the manner provided in this subchapter.

(d) The ordinance under which the refunding bonds are issued may provide that any refunding bonds shall have the same priority of lien on revenues as originally pledged for payment of the obligation refunded thereby.

History. Acts 1985, No. 974, § 4; A.S.A. 1947, § 13-1264; Acts 1987, No. 58, § 3; 2005, No. 1980, § 3.

14-164-419. Contract requirements.

(a) All services provided by a qualified efficiency engineer in completing a performance-based efficiency project pursuant to a qualified efficiency contract, including, but not limited to, the procurement of any goods and services in connection with the performance-based efficiency

project, shall be considered professional services under § 19-11-801 et seq.

(b) An issuer's engagement of a qualified efficiency engineering company and execution of a qualified efficiency contract in favor of a qualified efficiency engineering company shall be subject to § 19-11-801 et seq., but shall be exempt from all competitive bidding statutes, including, but not limited to, § 14-43-601 et seq., § 14-47-101 et seq., § 14-48-101 et seq., § 14-54-301 et seq., § 14-54-401 et seq., § 14-58-301 et seq., § 14-141-101 et seq., the General Accounting and Budgetary Procedures Law, § 19-4-101 et seq., § 19-11-101 et seq., § 22-1-201 et seq., the Building Authority Division Act, § 22-2-101 et seq., § 22-3-202 et seq., § 22-4-101 et seq., § 22-5-101 et seq., § 22-6-101 et seq., § 22-7-101 et seq., § 22-8-101 et seq., and § 22-9-101 et seq.

History. Acts 2005, No. 1980, § 4.

Subchapter 7 — Exemptions from Ad Valorem Taxation

Effective Dates. Acts 2001, No. 1629, § 4: Apr. 16, 2001. Emergency clause provided: "It is hereby found and determined by the General Assembly that the adequate funding of public schools is imperative; that the public schools are currently in dire need of additional funding; that this act will cause more resources to be made available to the public schools; that the sooner this act goes into effect, the sooner public schools will receive additional resources. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2003, No. 1289, § 3: Apr. 14, 2003. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court has ruled that the current system of education in Arkansas is inadequate and inequitable; that the Arkansas Supreme Court has found portions of the current public school funding formula to be unconstitutional; that the Arkansas Supreme Court has instructed the General Assembly to devise a remedy and has provided a stay on the ruling until January 1, 2004; that public schools are currently in dire need of additional funding; that this act is immediately necessary to enable public schools to receive additional funding. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new de-

partments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

14-164-701. Legislative intent.

(a) It is declared and confirmed that the securing and developing of industry is vital to the economic welfare of the state and its people. To this end, it is necessary that maximum flexibility be given to the Arkansas Development Finance Authority and to the counties and municipalities in the state in their efforts to retain and expand existing industrial facilities and locate new industrial facilities. This task involves the opportunity for the full utilization of the benefits of financing industrial facilities under Arkansas Constitution, Amendment 49 [repealed], and §§ 14-164-201 — 14-164-206, 14-164-208 — 14-164-224, § 14-267-101 et seq., §§ 15-5-101 — 15-5-105, 15-5-207, § 15-5-301 et seq., and the Arkansas Development Finance Authority Bond Guaranty Act of 1985, § 15-5-401 et seq., including the exemption from ad valorem taxation of all industrial facilities that were exempt under Arkansas Constitution, Article 16, § 5, as interpreted by the Supreme Court in Wayland v. Snapp, 232 Ark. 57, 334 S.W.2d 633 (1960).

(b) While concerns using industrial bond financing should be encouraged to make payments in lieu of ad valorem taxes, and that is declared to be the general policy of the General Assembly, the final determination of whether these payments are to be made and, if made, in what amounts should be negotiated and contracted by the counties or municipalities in the state and by the industrial concerns involved under § 14-164-704.

History. Acts 1981, No. 497, § 1; A.S.A. 1947, § 13-1616; Acts 2011, No. 813, § 1.

RESEARCH REFERENCES

ALR. When is property owned by state or local governmental body put to public use so as to be eligible for property tax exemption. 114 A.L.R.5th 561.

CASE NOTES

Cited: Pulaski County v. Jacuzzi Bros. Div., 332 Ark. 91, 964 S.W.2d 788 (1998).

14-164-702. Applicability.

(a) Pursuant to the findings and declarations of the state in § 14-164-701, it is found and declared that not only are the industrial facilities owned by a municipality, county, or the Arkansas Development Finance Authority financed with bonds issued under §§ 14-164-201 — 14-164-206, 14-164-208 — 14-164-224, § 14-267-101 et seq., §§ 15-5-101 — 15-5-105, 15-5-207, § 15-5-301 et seq., and the Arkansas Development Finance Authority Bond Guaranty Act of 1985, § 15-5-401 et seq., to be exempt from ad valorem taxation, but the interest of a lessee or of a purchaser under a contract for sale of industrial facilities that are so exempt are also exempt from ad valorem taxation. To this end, the interest of a lessee or of a purchaser is intangible personal property for purposes of ad valorem taxation. This finding and declaration is made under the authority granted to the General Assembly by and in implementation of the provisions and purposes of Arkansas Constitution, Amendment 57.

(b) The findings and declarations made in § 14-164-701 and the policy declared in this section apply to all existing industrial facilities and to all future industrial facilities involved in Arkansas Constitution, Amendment 49 [repealed], §§ 14-164-201 — 14-164-206, 14-164-208 — 14-164-224, § 14-267-101 et seq., §§ 15-5-101 — 15-5-105, 15-5-207, § 15-5-301 et seq., and the Arkansas Development Finance Authority Bond Guaranty Act of 1985, § 15-5-401 et seq., financings, and to all existing and future interests in leases or purchase contracts pertaining to these industrial facilities.

History. Acts 1981, No. 497, § 2; A.S.A. 1947, § 13-1617; Acts 2011, No. 813, § 1.

14-164-703. Payments in lieu of taxes.

(a) If the Arkansas Development Finance Authority or a county or municipality in the state and a lessee under a lease or a purchaser under a contract for sale enter into an agreement for payments in lieu of ad valorem taxes, each agreement shall provide, or under this subchapter shall be interpreted as providing, that all in-lieu-of-taxes payments shall be distributed to the local political subdivisions that would have received ad valorem tax payments on the industrial facilities if the interest involved had not been exempt from ad valorem taxes in the proportions that the millage levied by each affected local political subdivision bears to the millage levied by all affected political subdivisions, unless all such local political subdivisions, including without limitation the affected school district or districts, shall otherwise agree.

(b) This section does not affect the rights or obligations of any of the parties to an agreement under this subchapter that exists on the date of enactment of this subchapter providing for payments in lieu of ad valorem taxes.

History. Acts 1981, No. 497, § 3; A.S.A. 1947, § 13-1618; Acts 1991, No. 713, § 1; 2001, No. 1629, § 1; 2003, No. 1289, § 1; 2011, No. 813, § 1.

A.C.R.C. Notes. Acts 2001, No. 1629, § 3, provided: "The Senate and House Interim Committees on Education, the Senate and House Interim Committees on Insurance and Commerce, and the Senate and House Interim Committees on Revenue and Taxation, shall conduct a study of the impact of in-lieu-of-tax payments on state funding of the public schools and shall study the process of negotiating in-lieu-of-tax payments and draft any necessary legislation to improve the process."

14-164-704. Sale of property.

(a)(1)(A) When the Arkansas Development Finance Authority or a municipality or county in the state enters into a lease of property owned by the authority, a municipality, or a county or enters into a contract for sale of property by the authority, a municipality, or a county to a private for-profit entity under this subchapter or any other law or the Arkansas Constitution for the purpose of securing and developing industry, the lease or contract for sale shall, except as otherwise provided in this section, include an obligation that the lessee or purchaser make payments in lieu of property taxes in an amount as negotiated between the parties except the aggregate amount of the payments during the initial term of the lease or contract for sale shall be not less than thirty-five percent (35%) of the aggregate amount of ad valorem taxes that would be paid if the property were on the tax rolls, unless the Director of the Arkansas Economic Development Commission and the Chief Fiscal Officer of the State approve a lesser amount.

(B) If the authority is the owner of the property, there shall be a separate agreement for payment in lieu of taxes among the authority, the lessee or purchaser, the county in which the industrial facilities are located, and, if applicable, the municipality in which the industrial facilities are located.

(2)(A) The aggregate amount of ad valorem taxes that would be paid if the property were on the tax rolls during the initial term of the lease or contract for sale may be determined based on:

(i) The millage and assessment rates in effect at the time the obligation to make payments in lieu of property taxes is entered into;

(ii) The projected installed costs of the taxable real and personal property subject to or to be subject to the lease or contract for sale, which may be evidenced by an affidavit of an authorized officer of the private for-profit entity; and

(iii) Depreciation guidelines for personal property published by the Assessment Coordination Division.

(B) The aggregate amount determined under this subdivision (a)(2) shall be adjusted based on the actual installed costs of the taxable real and personal property at the time the lease or contract for sale is entered into or the time of completion of the project subject to the lease or contract for sale, whichever is later.

(3) In cases in which the municipality or county is the lessor or seller, the obligation may be contained in a separate agreement at the option of the parties to the lease or contract for sale.

(b) Before a meeting of municipal officials or county officials or officials of the authority in which action may be taken regarding approval of in-lieu-of-tax payments, the authority, municipality, or county shall give at least ten (10) days' notice of the date, time, and place of the meeting to the:

(1) Superintendent of each school district in which all or any part of the property that is subject to the lease or contract of sale is located;

(2) Chief Fiscal Officer of the State; and

(3) County assessor, county tax collector, and county treasurer of the county in which the property is located.

(c) Subsections (a) and (b) of this section do not apply to:

(1) An agreement existing before July 1, 2001;

(2) An agreement entered into on or after July 1, 2001, under a memorandum of intent or agreement to issue bonds authorized by a municipality or county before July 1, 2001;

(3) An agreement entered into on or after July 1, 2001, related to a project covered by a financial incentive proposal from the Arkansas Economic Development Commission, or by resolution of the governing body of a municipality or a county designating the project by name for the purposes of this exemption, dated before July 1, 2001;

(4) A reissue or refinancing of bonds that are subject to an existing in-lieu-of-tax agreement; and

(5) A lease or contract for sale with a qualified manufacturer of steel as defined in § 26-52-901 or in Acts 2001, No. 541, entered into before June 30, 2009.

History. Acts 2003, No. 1289, § 2; 2011, No. 813, § 1; 2019, No. 289, § 1; 2019, No. 910, § 329.

Publisher's Notes. This section was derived from uncodified sections (b) through (d) of Acts 2001, No. 1629, as amended and codified by Acts 2003, No. 1289, § 2.

Amendments. The 2019 amendment by No. 289, in the introductory language of (b), inserted the first occurrence of "officials" and substituted "may" for "might"; and added (b)(3).

The 2019 amendment by No. 910 substituted "Assessment Coordination Division" for "Assessment Coordination Department" in (a)(2)(A)(iii).

Subchapter 8 — Local Government Energy Efficiency Project Bond Act

14-164-801. Title.

This subchapter shall be known and may be cited as the "Local Government Energy Efficiency Project Bond Act".

History Acts 2015, No. 1275, § 1.

14-164-802. Purpose — Legislative findings.

(a) The purpose of this subchapter is to provide financing for energy efficiency projects for municipalities and counties under Arkansas Constitution, Amendment 89.

(b) The General Assembly finds that:

(1) This subchapter is in furtherance of a public purpose; and

(2) The duties imposed upon and authority granted to municipalities and counties in this subchapter are in furtherance of the conservation of the environment, efficient government spending, and the protection of the public health, welfare, and safety.

History Acts 2015, No. 1275, § 1.

14-164-803. Definitions.

As used in this subchapter:

(1) "Bonds" means bonds, notes, certificates, financing leases, or other interest-bearing instruments or evidences of indebtedness that are issued under this subchapter;

(2) "Chief executive officer" means the chief executive officer of a municipality or the county judge of a county;

(3) "County" means a county in the State of Arkansas;

(4) "Energy efficiency project" means:

(A) A new facility that is designed to reduce the consumption of energy or natural resources or result in operating cost savings as a result of changes that:

(i) Do not degrade the level of service or working conditions;

(ii) Are measurable and verifiable under the International Performance Measurement and Verification Protocol, promulgated by the Arkansas Pollution Control and Ecology Commission in the rules required under § 19-11-1207; and

(iii) Are measured and verified by an audit performed by an independent engineer or by a qualified provider, including the vendor providing the energy efficiency project; or

(B) An existing facility alteration that is designed to reduce the consumption of energy or natural resources or result in operating cost

savings as a result of changes that conform with subdivisions (4)(A)(i) and (ii) of this section;

(5) "Guaranteed energy cost savings contract" means a contract for the implementation of one (1) or more energy efficiency projects and services provided by a qualified provider in which the energy and cost savings achieved by the installed energy efficiency project cover all energy efficiency project costs, including financing, over a specified contract term;

(6) "Issuer" means a municipality or a county;

(7) "Legislative body" means the quorum court of a county or the council, board of directors, board of commissioners, or similar elected governing body of a city or town;

(8) "Municipality" means a city or incorporated town in the State of Arkansas;

(9) "Operating cost savings" means expenses eliminated and future replacement expenditures avoided as a result of new equipment installed or services performed;

(10) "Ordinance" means an ordinance, resolution, or other appropriate legislative enactment of a legislative body; and

(11) "Qualified provider" means the same as defined in § 19-11-1202.

History Acts 2015, No. 1275, § 1; 2017, No. 271, § 3; 2019, No. 315, § 1008.

Amendments. The 2017 amendment substituted "promulgated by the Arkansas Pollution Control and Ecology Commission in the regulations" for "as adopted by the Arkansas Energy Office in the rules" in (4)(A)(ii).

The 2019 amendment substituted "rules" for "regulations" in (4)(A)(ii).

14-164-804. Energy efficiency projects authorized.

(a)(1) A municipality or county may enter into a guaranteed energy cost savings contract in order to reduce energy consumption or operating costs of government facilities under this subchapter.

(2) A municipality or county may enter into an installment payment contract or lease purchase agreement with a qualified provider for the purchase and installation of an energy efficiency project in accordance with this subchapter.

(b) An energy efficiency project shall comply with current local, state, and federal construction and environmental codes, rules, and regulations.

History Acts 2015, No. 1275, § 1; 2019, No. 315, § 1009.

Amendments. The 2019 amendment inserted "rules" in (b).

14-164-805. Method of solicitation.

A solicitation of a guaranteed energy cost savings contract by a county or municipality shall be consistent with applicable procurement laws.

History Acts 2015, No. 1275, § 1.

14-164-806. Evaluation of responses to solicitations.

(a) In a municipality's or county's evaluation of each qualified provider's response to a solicitation under § 14-164-805, the municipality or county shall include an analysis of:

(1) Whether the qualified provider meets the objectives of the solicitation, including without limitation a reduction in the municipality's or county's energy consumption or operating costs resulting from a guaranteed energy cost savings contract with the qualified provider;

(2) The qualifications and experience of the qualified provider;

(3) The technical approach to the energy efficiency project;

(4) The financial aspects of the energy efficiency project;

(5) The overall benefit to the municipality or county; and

(6) Any other relevant factors.

(b) After evaluating a response to a solicitation as required under subsection (a) of this section, a municipality or county may:

(1) Reject the response; or

(2) Award a contract to a qualified provider to conduct an energy audit to be used in developing the guaranteed energy cost savings contract.

History Acts 2015, No. 1275, § 1.

14-164-807. Guaranteed energy cost savings contract requirements.

(a) The following provisions are required in a guaranteed energy cost savings contract:

(1) A statement that the municipality or county shall maintain and operate the energy efficiency project as defined in the guaranteed energy cost savings contract; and

(2) A guarantee by the qualified provider that:

(A) The energy cost savings and operating cost savings to be realized over the term of the guaranteed energy cost savings contract meet or exceed the costs of the energy efficiency project; and

(B) If the annual energy or operating cost savings fail to meet or exceed the annual costs of the energy efficiency project as required by the guaranteed energy cost savings contract, the qualified provider shall reimburse the municipality or county for any shortfall of guaranteed energy cost savings over the term of the guaranteed energy cost savings contract.

(b) The maximum term for a guaranteed energy cost savings contract is twenty (20) years after the implementation of the energy efficiency project.

(c) Before entering into a guaranteed energy cost savings contract, the municipality or county shall require the qualified provider to file with the municipality or county a payment and performance bond or similar assurance.

History Acts 2015, No. 1275, § 1.

14-164-808. Bonds — Issuance generally.

(a)(1) A municipality or county may issue bonds for an energy efficiency project within, near, or within and near the municipality or county.

(2) Bonds shall be issued pursuant to an ordinance adopted by the legislative body specifying:

(A) The principal amount of bonds to be issued;

(B) The purpose or purposes for which the bonds are to be issued; and

(C) Any other provisions deemed important with respect to the bonds.

(b) A legislative body shall not adopt an ordinance regarding the issuance of bonds unless the legislative body has determined that:

(1) All of the work on the energy efficiency project will be performed by a qualified provider; and

(2) The qualified provider has provided a guarantee of the operating cost savings to be realized from the energy efficiency project that:

(A) The energy cost savings and operating cost savings to be realized over the term of the guaranteed energy cost savings contract meet or exceed the costs of the energy efficiency project; and

(B) If the annual energy or operating cost savings fail to meet or exceed the annual costs of the energy efficiency project as required by the guaranteed energy cost savings contract, the qualified provider shall reimburse the issuer for any shortfall of guaranteed energy cost savings over the term of the guaranteed energy cost savings contract.

(c) The maximum term of the bonds may not exceed the shorter of:

(1) The useful life of the energy efficiency project; or

(2) Twenty (20) years.

History Acts 2015, No. 1275, § 1.

14-164-809. Bonds — Terms and conditions.

(a) As provided by an ordinance or trust indenture authorized under this subchapter, bonds may:

(1) Be in registered or other form;

(2) Be in such denominations as determined by the legislative body;

(3) Be exchangeable for bonds of another denomination;

(4) Be made payable at places within or without the state;

(5) Be issued in one (1) or more series;

(6) Bear the date or dates determined by the legislative body of the issuer;

(7) Mature at the time or times determined by the legislative body of the issuer;

(8) Be payable in such medium of payment determined by the legislative body of the issuer;

(9) Be subject to the terms of redemption determined by the legislative body of the issuer; and

(10) Contain other terms, covenants, and conditions determined by the legislative body of the issuer, including without limitation terms, covenants, and conditions pertaining to:

(A) The custody and application of the proceeds of the bonds;

(B) The maintenance of various funds and reserves;

(C) The nature and extent of the pledge and security;

(D) The remedies on default; and

(E) The rights, duties, and obligations of the legislative body of the issuer and the trustee, if any, for the owners of the bonds, and the rights of the owners of the bonds.

(b) All bonds are negotiable instruments within the meaning of the negotiable instruments law of the state.

History Acts 2015, No. 1275, § 1.

14-164-810. Bonds — Trust indenture.

(a) The ordinance authorizing bonds may provide for the execution by the chief executive officer of the issuer of a trust indenture that:

(1) Defines the rights of the owners of the bonds; and

(2) Provides for the appointment of a trustee for the owners of the bonds.

(b) A trust indenture executed under this section may:

(1) Provide for the priority between and among successive issues; and

(2) Contain one (1) or more of the provisions stated in § 14-164-809 and any other terms, covenants, and conditions that are deemed desirable.

History Acts 2015, No. 1275, § 1.

14-164-811. Bonds — Sale.

(a) Bonds may be sold at a public or private sale for the price and in the manner determined by the legislative body of the issuer.

(b) Bonds sold under this subchapter may be sold at a discount or a premium.

History Acts 2015, No. 1275, § 1.

14-164-812. Bonds — Execution.

Bonds shall be executed in the manner provided by the Registered Public Obligations Act of Arkansas, § 19-9-401 et seq.

History Acts 2015, No. 1275, § 1.

14-164-813. Bonds — Payment — Security.

(a) The principal of and interest on the bonds may be secured by a pledge of the operating cost savings derived from the energy efficiency project, and a municipality or county may pledge or assign a guaranteed energy cost savings contract to secure the bonds.

(b) The total annual principal and interest payments in each fiscal year on bonds shall be charged against and paid from general revenues, special revenues, revenues derived from taxes, or any other revenues available to the municipality or county if the special revenues, revenues derived from taxes, or other revenues have not been previously restricted to another purpose.

(c) Notwithstanding any law to the contrary, a municipality or county may use money budgeted for maintenance and operations to pay the principal of and interest on bonds issued for an energy efficiency project under this subchapter.

(d)(1) Bonds are not revenue bonds for purposes of any statute.

(2) The legislative body is not required to hold a public hearing on the issuance of the bonds.

History Acts 2015, No. 1275, § 1.

14-164-814. Bonds — Energy efficiency project liens.

(a) An ordinance or trust indenture authorized under § 14-164-808 or § 14-164-810 may impose a financing lien on an energy efficiency project financed or refinanced, in whole or in part, with the proceeds of bonds.

(b) The nature and extent of a lien imposed under this section may be controlled by the ordinance or trust indenture, including without limitation provisions pertaining to:

(1) The release of all or part of the land, buildings, or facilities from the lien;

(2) The priority of the lien in the event of successive bond issues; and

(3) The authorization of any owner of bonds, or a trustee on behalf of all owners, to enforce the lien and, by proper suit, compel the performance of the duties of the officials of the issuer stated in this subchapter or in the ordinance or trust indenture authorizing or securing the bonds.

(c) As used in this section, "lien" includes a security interest in any personal property constituting an energy efficiency project and any part of an energy efficiency project financed or refinanced, in whole or in part, with the proceeds of bonds issued under this subchapter.

History Acts 2015, No. 1275, § 1.

14-164-815. Liability of legislative body's officers, employees, and members.

An officer, employee, or member of the legislative body of an issuer under this subchapter shall not be personally liable on bonds or for damages sustained by a person in connection with a guaranteed energy cost savings contract entered into to carry out the purposes and intent of this subchapter unless the person has acted with a corrupt intent.

History Acts 2015, No. 1275, § 1.

14-164-816. Tax exemption.

Bonds and the income on the bonds are exempt from all state, county, and municipal taxes, including without limitation income, property, and inheritance taxes.

History Acts 2015, No. 1275, § 1.

14-164-817. Refunding bonds.

(a) Bonds may be issued to refund any outstanding bonds or to refund any outstanding bonds issued under any other law for the purpose of financing energy efficiency projects.

(b)(1) Refunding bonds may be sold for cash or delivered in exchange for the outstanding obligations under subsection (a) of this section.

(2) If refunding bonds are sold for cash under subdivision (b)(1) of this section, the proceeds may be applied to the payment of the obligations refunded or deposited into an irrevocable trust for the retirement of the refunding bonds either at maturity or on an authorized redemption date.

(c) Refunding bonds shall in all respects be authorized, issued, and secured in the manner provided in this subchapter.

(d) The ordinance under which refunding bonds are issued may provide that any refunding bonds shall have the same priority of lien on revenues as originally pledged for payment of the obligation refunded by the refunding bonds.

History Acts 2015, No. 1275, § 1.

14-164-818. Applicability.

This subchapter:

(1) Applies only to municipalities and counties; and

(2) Does not apply to the following governmental units:

(A) The state and any agency, board, commission, or instrumentality of the state;

(B) A school district; or

(C) A special assessment or taxing district established under the laws of the state.

History Acts 2015, No. 1275, § 1.

14-164-819. Subchapter supplemental to other laws.

This subchapter is:

(1) Supplemental to other laws, and municipalities and counties may use other applicable laws in the issuance of bonds and other obligations under this subchapter; and

(2) Sufficient authority for the issuance of bonds and the performance of all other acts and procedures authorized by this subchapter.

History Acts 2015, No. 1275, § 1.

14-164-820. Construction.

This subchapter shall be construed liberally to effectuate the legislative intent and the purposes of this subchapter as a complete and independent authority for the performance of the acts authorized under this subchapter, and the powers granted under this subchapter shall be broadly interpreted to effectuate the intent and purposes and shall not be interpreted as a limitation of powers.

History Acts 2015, No. 1275, § 1.

14-164-821. Rules.

A municipality or county may provide by ordinance that the municipality or county shall comply with the rules promulgated by the Arkansas Pollution Control and Ecology Commission under § 19-11-1207.

History Acts 2015, No. 1275, § 1; 2017, No. 271, § 4; 2019, No. 315, § 1010.

Amendments. The 2017 amendment substituted "Regulations" for "Rules" in the section heading; and substituted "regulations promulgated by the Arkansas Pollution Control and Ecology Commission" for "rules promulgated by the Arkansas Energy Office".

The 2019 amendment substituted "Rules" for "Regulations" in the section heading and substituted "rules" for "regulations" in the text.

CHAPTER 166

PLANNING AND DEVELOPMENT ORGANIZATIONS

SUBCHAPTER.

2. Multi-County Planning and Development Organizations.

Subchapter 2 — Multi-County Planning and Development Organizations

SECTION.

14-166-202. Designation of districts.

14-166-202. Designation of districts.

(a) The General Assembly recognizes as planning and development districts the boundaries of the following eight (8) economic development districts:

(1) Northwest Arkansas Economic Development District, Inc., consisting of Benton, Washington, Madison, Carroll, Boone, Newton, Marion, Searcy, and Baxter counties;

(2) North Central Arkansas Economic Development District, Inc., consisting of Fulton, Izard, Sharp, Stone, Independence, Jackson, Van Buren, Cleburne, White, and Woodruff counties;

(3) Northeast Arkansas Economic Development District, Inc., consisting of Randolph, Clay, Lawrence, Greene, Craighead, Mississippi, Poinsett, Cross, Crittenden, St. Francis, Lee, and Phillips counties;

(4) Southeast Arkansas Economic Development District, Inc., consisting of Grant, Jefferson, Arkansas, Cleveland, Lincoln, Desha, Bradley, Drew, Chicot, and Ashley counties;

(5) Southwest Economic Development District of Arkansas, Inc., consisting of Sevier, Howard, Little River, Hempstead, Nevada, Ouachita, Dallas, Calhoun, Miller, Lafayette, Columbia, and Union counties;

(6) Western Arkansas Economic Development District, Inc., consisting of Crawford, Franklin, Sebastian, Logan, Scott, and Polk counties;

(7) West Central Arkansas Economic Development District, Inc., consisting of Johnson, Pope, Conway, Yell, Perry, Montgomery, Garland, Pike, Clark, and Hot Spring counties; and

(8) Central Arkansas Economic Development District, Inc., consisting of Faulkner, Saline, Pulaski, Lonoke, Prairie, and Monroe counties.

(b)(1) If a municipality is located in two (2) or more counties which are situated in different planning and development districts, then if the governing body of the municipality so determines by ordinance, the entire area of the municipality may be deemed attached to the planning and development district which has the county with the highest proportion of the population of the municipality.

(2) The population of the municipality shall be based upon the most recent federal decennial or special census data available for the municipality.

(c)(1) Nothing in this subchapter is intended to change or conflict with the status of regional and metropolitan planning commissions or councils of governments established under § 14-17-301 et seq. and § 14-56-501 et seq.

(2) This subchapter does not change the designation of urban and metropolitan planning organizations presently recognized by the Department of Finance and Administration for programs of the United States Department of Housing and Urban Development or any other department of the United States Government.

History. Acts 1969, No. 118, § 2; A.S.A. 1947, § 9-325; Acts 2001, No. 754, § 1.

Cross References. Disposal of railroad track material, § 15-11-211.

CHAPTER 168

COMMUNITY REDEVELOPMENT GENERALLY

SUBCHAPTER.

Subchapter 2 — Community Redevelopment Financing [Repealed.]

SECTION.

14-168-201 — 14-168-220. [Repealed.]

Publisher's Notes. These sections, concerning the Arkansas Community Redevelopment Financing Act title, legislative findings and purpose, definition, construction, supplemental powers, general powers, district creation, project plans, overlapping districts, valuation of real property, division of ad valorem real property taxes, tax receipts, bonds, and redevelopment of bonds or notes, were repealed by Acts 2001, No. 1197, § 24. The sections were derived from the following sources:

14-168-201. Acts 1981, No. 716, § 1; A.S.A. 1947, § 13-2501.

14-168-202. Acts 1981, No. 716, § 2; A.S.A. 1947, § 13-2502.

14-168-203. Acts 1981, No. 716, § 4; 1983, No. 421, §§ 1-4; A.S.A. 1947, § 13-2504.

14-186-204. Acts 1981, No. 716, § 12; A.S.A. 1947, § 13-2512.

14-168-205. Acts 1981, No. 716, § 3; A.S.A. 1947, § 13-2503.

14-168-206. Acts 1981, No. 716, § 5; 1983, No. 421, §§ 5, 6; A.S.A. 1947, § 13-2505.

14-168-207. Acts 1981, No. 716, § 6; 1983, No. 421, § 7; A.S.A. 1947, § 13-2506.

14-168-208. Acts 1981, No. 716, § 6; 1983, No. 421, § 7; A.S.A. 1947, § 13-2506.

14-168-209. Acts 1981, No. 716, § 6; 1983, No. 421, § 7; A.S.A. 1947, § 13-2506.

14-168-210. Acts 1981, No. 716, § 10; A.S.A. 1947, § 13-2510.

14-168-211. Acts 1981, No. 716, § 8; 1983, No. 421, § 8; A.S.A. 1947, § 13-2508.

14-168-212. Acts 1981, No. 716, § 7; A.S.A. 1947, § 13-2507.

14-168-213. Acts 1981, No. 716, § 9; A.S.A. 1947, § 13-2509.

14-168-214. Acts 1981, No. 716, § 9; A.S.A. 1947, § 13-2509.

14-168-215. Acts 1981, No. 716, § 9; A.S.A. 1947, § 13-2509.

14-168-216. Acts 1981, No. 716, § 9; A.S.A. 1947, § 13-2509.

14-168-217. Acts 1981, No. 716, § 9; A.S.A. 1947, § 13-2509.

14-168-218. Acts 1981, No. 716, § 9; A.S.A. 1947, § 13-2509.

14-168-219. Acts 1981, No. 716, § 9; A.S.A. 1947, § 13-2509.

14-168-220. Acts 1981, No. 716, § 9; A.S.A. 1947, § 13-2509.

14-168-221. [Repealed.]

Publisher's Notes. This section, concerning impact reports, was repealed by Acts 2003, No. 1473, § 29. The section was derived from Acts 1981, No. 716, § 11; A.S.A. 1947, § 13-2511.

For present law, see § 14-168-322.

Subchapter 3 — Community Redevelopment — Creation and Procedures

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A.C.R.C. Notes. Acts 2001, No. 1197, § 1, provided: "Legislative findings and purpose.

"(a) The General Assembly finds that:

"(1) The citizens of the State of Arkansas approved Amendment No. 78 to the Arkansas Constitution at the general election held November 7, 2000;

"(2) The amendment calls for enabling legislation to be enacted by the General Assembly;

"(3) The amendment necessarily calls for certain definitions to be stated and procedures to be established for the creation of redevelopment districts, the approval of projects, the issuance of bonds to finance such projects, and the division of ad valorem taxes for the purposes of securing such bonds;

"(4) It agrees that in order to encourage the investment of private capital and to encourage private enterprise to make community improvements to alleviate deteriorating conditions and improve the health, safety, convenience, and welfare of the citizens of the state; and

"(5) This act is necessary to provide a means for cities and counties to finance redevelopment projects by using a tax-increment method of financing such improvements.

"(b) The General Assembly declares the purpose of this act to be as follows:

"(1) To create a viable procedure by which a local government may finance redevelopment projects that improve the community;

"(2) To create a more stable and adequate source of funds for local governments to construct improvements and finance rehabilitation of distressed and blighted areas; and

"(3) To benefit the people of this state, for the increase of their commerce, welfare, and prosperity, and for the improvement of their living conditions;

"(4) To provide new employment opportunities;

"(5) To prevent, arrest, and alleviate blight and decay in communities;

"(6) To increase the supply of housing available at low rentals; and

"(7) To improve the tax base and to improve the general economy of the State of Arkansas by providing additional and alternative means for local governments to finance public facilities and residential, commercial, and industrial development

and revitalization, all to the public benefit and good, in the manner provided in this act."

Effective Dates. Acts 2005, No. 2231, § 8: Apr. 13, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that clarification of existing community redevelopment law is necessary to carry out the intent of this subchapter. Therefore, an emergency is declared to exist and this bill being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2009, No. 1181, § 3: Apr. 7, 2009: Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that due to the instability in the financial markets and the need for alternative financing options by local governments to finance redevelopment projects that can act as an economic stimulus for a community, that there is a need to amend the law; and this act is immediately necessary because of the uncertainty of the economy. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

14-168-301. Definitions.

As used in this subchapter:

(1) "Applicable ad valorem rate" means the total ad valorem rate less the debt service ad valorem rate;

(2) "Base value" means the assessed value of all real property within a redevelopment district subject to ad valorem taxation, as of the most recent assessment preceding the effective date of the ordinance approving the project plan of the redevelopment district;

(3)(A) "Blighted area" means an area in which the structures, buildings, or improvements, by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for access, ventilation, light, air, sanitation, or open spaces, high density of population, and overcrowding or the existence of conditions which endanger life or property, are detrimental to the public health, safety, morals, or welfare.

(B) "Blighted area" includes any area which, by reason of the presence of a substantial number of substandard, slum, deteriorated or deteriorating structures, predominance of defective or inadequate street layout, faulty lot layout in relation to size, adequacy, accessibility, or usefulness, unsanitary or unsafe conditions, deterioration of site or other improvements, diversity of ownership, tax on special assessment delinquency exceeding the fair value of the land, defective or unusual conditions of title, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, substantially impairs or arrests the sound growth of

a city, retards the provision of housing accommodations, or constitutes an economic or social liability and is a menace to the public health, safety, morals, or welfare in its present condition and use, or any area which is predominantly open and which because of lack of accessibility, obsolete platting, diversity of ownership, deterioration of structures or of site improvements, or otherwise, substantially impairs or arrests the sound growth of the community;

(4) "Capital improvements of a public nature" has the same meaning as in § 14-164-303(2);

(5) "Current value" means the assessed value of all real property within a redevelopment district subject to ad valorem taxation, as of the most recent assessment after the formation of the redevelopment district;

(6) "Debt service ad valorem rate" means that portion of the total ad valorem rate that, as of the effective date of the creation of the redevelopment district, is pledged to the payment of debt service on bonds issued by any taxing unit in which all or any part of the redevelopment district is located;

(7)(A) "Incremental value" for any redevelopment district, means the difference between the base value and the current value.

(B) The incremental value will be positive if the current value exceeds the base value, and the incremental value will be negative if the current value is less than the base value;

(8) "Local governing body" means the city council, city board of directors, county quorum court, or any other legislative body governing a local government in the State of Arkansas;

(9) "Local government" means any city or county in the State of Arkansas;

(10)(A) "Project costs" means expenditures made in preparation of the project plan and made, or estimated to be made, or monetary obligations incurred, or estimated to be incurred, by the local government, which are listed in the project plan as costs of public works or improvements benefiting a redevelopment project district, plus any costs incidental thereto.

(B) Project costs include, but are not limited to:

(i) Capital costs, including, but not limited to, the actual costs of the construction of public works or improvements, new buildings, structures, and fixtures, the demolition, alteration, remodeling, repair, or reconstruction of existing buildings, structures, and fixtures, environmental remediation, parking and landscaping, the acquisition of equipment, and site clearing, grading, and preparation;

(ii) Financing costs, including, but not limited to, all interest paid to holders of evidences of indebtedness issued to pay for project costs, all costs of issuance, and any redemption premiums, credit enhancement, or other related costs;

(iii) Real property assembly costs, meaning any deficit incurred resulting from the sale or lease as lessor by the local government of real or personal property within a redevelopment district for consideration which is less than its cost to the local government;

(iv) Professional service costs, including, but not limited to, those costs incurred for architectural, planning, engineering, and legal advice and services;

(v) Imputed administrative costs, including, but not limited to, reasonable charges for the time spent by local government employees in connection with the implementation of a project plan;

(vi) Relocation costs, including, but not limited to, those relocation payments made following condemnation and job training and retraining;

(vii) Organizational costs, including, but not limited to, the costs of conducting environmental impact and other studies and the costs of informing the public with respect to the creation of redevelopment project areas and the implementation of project plans;

(viii) The amount of any contributions made in connection with the implementation of the project plan;

(ix) Payments made, in the discretion of the local governing body, which are found to be necessary or convenient to the creation of redevelopment areas or the implementation of project plans; and

(x) That portion of costs related to the construction of environmental protection devices, storm or sanitary sewer lines, water lines, amenities, federal or state highways, or city or county streets or the rebuilding or expansion of highways or streets, the construction, alteration, rebuilding, or expansion of which is necessitated by the project plan for a district, whether or not the construction, alteration, rebuilding, or expansion is within the area;

(11) "Project plan" means the plan which shall be adopted by a local governing body for a redevelopment project as described in § 14-168-306;

(12) "Real property" means all lands, including improvements and fixtures on them and property of any nature appurtenant to them or used in connection with them and every estate, interest, and right, legal or equitable, in them, including terms for years and liens by way of judgment, mortgage, or otherwise, and the indebtedness secured by the liens;

(13) "Redevelopment district" means a contiguous geographic area within a city or county in which a redevelopment project will be undertaken, as defined and created by ordinance of the local governing body;

(14)(A) "Redevelopment project" means an undertaking for eliminating or preventing the development or spread of slums or deteriorated, deteriorating, or blighted areas, for discouraging the loss of commerce, industry, or employment, or for increasing employment, or any combination thereof.

(B) A redevelopment project may include one (1) or more of the following:

(i) The acquisition of land and improvements, if any, within the redevelopment district and clearance of the land so acquired;

(ii) The development, redevelopment, revitalization, or conservation of the project area whenever necessary to provide land for needed

public facilities, public housing, or industrial or commercial development or revitalization, to eliminate unhealthful, unsanitary, or unsafe conditions, to lessen density, mitigate or eliminate traffic congestion, reduce traffic hazards, eliminate obsolete or other uses detrimental to the public welfare, or otherwise remove or prevent the spread of blight or deterioration;

(iii) The financial or other assistance in the relocation of persons and organizations displaced as a result of carrying out the redevelopment project and other improvements necessary for carrying out the project plan, together with such site improvements as are necessary for the preparation of any sites and making any land or improvements acquired in the project area available by sale or by lease for public housing or for development, redevelopment, or rehabilitation by private enterprise for commercial or industrial uses in accordance with the plan;

(iv) The construction of capital improvements within a redevelopment district designed to alleviate deteriorating conditions or a blighted area or designed to increase or enhance the development of commerce, industry, or housing within the redevelopment district; or

(v) Any other projects the local governing body deems appropriate to carry out the purposes of this subchapter;

(15) "Special fund" means a separate fund for a redevelopment district established by the local government into which all tax increment revenues and other pledged revenues are deposited and from which all project costs are paid;

(16) "Tax increment" means the incremental value of a redevelopment district multiplied by the applicable ad valorem rate;

(17) "Taxing unit" means the State of Arkansas and any city, county, or school district; and

(18)(A) "Total ad valorem rate" means the total millage rate of all state, county, city, school, or other property taxes levied on all taxable property within a redevelopment district in a year.

(B) The total ad valorem rate shall not include any:

(i) Increases in the total millage rate occurring after the effective date of the creation of the redevelopment district if the additional millage is pledged for repayment of a specific bond or note issue;

(ii) Property taxes levied for libraries under Arkansas Constitution, Amendment 30, or Arkansas Constitution, Amendment 38;

(iii) Property taxes levied for a fireman's relief and pension fund or policeman's relief and pension fund of any municipality or county; or

(iv) Property taxes levied for any hospital owned and operated by a county.

History. Acts 2001, No. 1197, § 2; 2005, No. 1163, § 1; 2005, No. 2231, § 1.

A.C.R.C. Notes. Pursuant to § 1-2-207, this section is set out above as amended by Acts 2005, Nos. 1163 and 2231. Present subdivision (18) of this section was also amended by Acts 2005, No. 1275, § 1, to read as follows:

"'Total ad valorem rate' means the total millage rate of all county, city, school, or other local general property taxes levied on all taxable property within a redevel-

opment district in a year, other than property taxes levied for libraries under Arkansas Constitution, Amendment 30, or Arkansas Constitution, Amendment 38."

Cross References. City and county government redevelopment, Ark. Const. Amend. 78.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Tucker M. Brackins, Note: Tax Increment Financing—A Case for Bringing TIF Back to the State of Arkansas, 42 U. Ark. Little Rock L. Rev. 611 (2020).

CASE NOTES

Total Ad Valorem Rate.

County tax collector erred in including 2.75 mills in the total ad valorem rate and applying a portion of them to the redevelopment district because the mills were passed to repay proposed school bonds; under subdivision (18)(B)(i) of this section, the "total ad valorem rate" excluded increases that were pledged for repayment of a specific bond issue. City of Fayetteville v. Fayetteville Sch. Dist. No. 1, 2013 Ark. 71, 427 S.W.3d 1 (2013).

14-168-302. Construction.

The General Assembly declares that this subchapter is necessary for the welfare of this state and its inhabitants, and it is the intent of the General Assembly that it is to be broadly construed to effect its purpose.

History. Acts 2001, No. 1197, § 3.

14-168-303. Powers supplemental.

The powers conferred by this subchapter are in addition and supplemental to the powers conferred upon local governments and improvement districts by the General Assembly relating to the issuance of bonds.

History. Acts 2001, No. 1197, § 4.

14-168-304. Powers generally.

In addition to any other powers conferred by law, a local government may exercise any powers necessary and convenient to carry out the purpose of this subchapter, including the power to:

(1) Create redevelopment districts and to define the boundaries of redevelopment districts;

(2) Cause project plans to be prepared, to approve the project plans, and to implement the provisions and effectuate the purposes of the project plans;

(3) Issue redevelopment bonds, notes, or other evidences of indebtedness, in one or more series, and to pledge tax increments and other redevelopment revenues for repayment of them;

(4) Deposit moneys into the special fund for any redevelopment project district;

(5) Enter into any contracts or agreements, including agreements with bondholders, determined by the local governing body to be necessary or convenient to implement the provisions and effectuate the purposes of project plans;

(6) Receive from the United States Government or the state loans and grants for or in aid of a redevelopment project and to receive contributions from any other source to defray project costs;

(7)(A) Exercise the right of eminent domain to condemn property for the purposes of implementing the project plan.

(B) The rules and procedures set forth in §§ 18-15-301 — 18-15-307 shall govern all condemnation proceedings authorized in this subchapter;

(8) Make relocation payments to such persons, businesses, or organizations as may be displaced as a result of carrying out the redevelopment project;

(9) Clear and improve property acquired by it pursuant to the project plan and construct public facilities on it or contract for the construction, development, redevelopment, rehabilitation, remodeling, alteration, or repair of the property;

(10) Cause parks, playgrounds, or water, sewer, or drainage facilities, or any other public improvements, including, but not limited to, fire stations, community centers, and other public buildings which it is otherwise authorized to undertake to be laid out, constructed, or furnished in connection with the redevelopment project;

(11) Lay out and construct, alter, relocate, change the grade of, make specific repairs upon, or discontinue public ways and construct sidewalks in, or adjacent to, the redevelopment project;

(12) Cause private ways, sidewalks, ways for vehicular travel, playgrounds, or water, sewer, or drainage facilities and similar improvements to be constructed for the benefit of the redevelopment district or those dwelling or working in it;

(13) Construct any capital improvements of a public nature, as such term is defined in § 14-164-303(2), as now or hereafter amended;

(14) Construct capital improvements to be leased or sold to private entities in connection with the goals of the redevelopment project;

(15) Designate one (1) or more officials or employees of the local government to make decisions and handle the affairs of redevelopment districts created pursuant to this subchapter;

(16) Adopt ordinances or bylaws or repeal or modify such ordinances or bylaws or establish exceptions to existing ordinances and bylaws regulating the design, construction, and use of buildings within the redevelopment district;

(17) Sell, mortgage, lease, transfer, or dispose of any property, or interest therein, acquired by it pursuant to the project plan for development, redevelopment, or rehabilitation in accordance with the project plan;

(18) Invest project revenues as provided in this subchapter; and

(19) Do all things necessary or convenient to carry out the powers granted in this subchapter.

History. Acts 2001, No. 1197, § 5; 2005, No. 2231, § 2.

14-168-305. Creation of district.

(a) The local governing body, upon its own initiative or upon request of affected property owners or upon request of the city or county planning commission, may designate the boundaries of a proposed redevelopment district.

(b)(1) The local governing body shall hold a public hearing at which interested parties are afforded a reasonable opportunity to express their views on the proposed creation of a redevelopment district and its proposed boundaries.

(2)(A) Notice of the hearing shall be published in a newspaper of general circulation in the city or county at least fifteen (15) days prior to the hearing.

(B) Prior to this publication, a copy of the notice shall be sent by first-class mail to the chief executive officers of all local governmental and taxing units having the power to levy taxes on property located within the proposed redevelopment district and to the superintendent of any school district which includes property located within the proposed redevelopment district.

(c) The local governing body shall adopt an ordinance which:

(1) Describes the boundaries of a redevelopment district sufficiently definitely to identify with ordinary and reasonable certainty the territory included, which boundaries may create a contiguous district;

(2) Creates the redevelopment district as of a date provided in it;

(3)(A) Assigns a name to the redevelopment district for identification purposes.

(B) The name may include a geographic or other designation, shall identify the city or county authorizing the district, and shall be assigned a number beginning with the number one (1).

(C) Each subsequently created district shall be assigned the next consecutive number;

(4) Contains findings that the real property within the redevelopment district will be benefited by eliminating or preventing the development or spread of slums or blighted, deteriorated, or deteriorating areas, or discouraging the loss of commerce, industry, or employment, or increasing employment, or any combination thereof; and

(5) Contains findings whether the property located in the proposed redevelopment district is in a wholly unimproved condition or whether the property located in the proposed redevelopment district contains existing improvements.

(d) The local governing body shall not approve an ordinance creating a redevelopment district, unless the local governing body determines that the boundaries of the proposed redevelopment district are in a blighted area that includes the presence of at least one (1) of the following factors:

(1) Property located in the proposed redevelopment district is in an advanced state of dilapidation or neglect or is so structurally deficient

that improvements or major repairs are necessary to make the property functional;

(2) Property located in the proposed redevelopment district has structures that have been vacant for more than three (3) years;

(3) Property located in the proposed redevelopment district has structures that are functionally obsolete and cause the structures to be ill-suited for their original use; or

(4) Vacant or unimproved parcels of property located in the redevelopment district are in an area that is predominantly developed and are substantially impairing or arresting the growth of the city or county due to obsolete platting, deterioration of structures, absence of structures, infrastructure, site improvements, or other factors hindering growth.

(e)(1) No county shall establish a redevelopment district, any portion of which is within the boundaries of a city.

(2) However, one (1) or more local governments through interlocal agreement may join in the creation of a district, the boundaries of which lie in one (1) or more local governments.

(f)(1) The ordinance shall establish a special fund as a separate fund into which all tax increment revenues, and any other revenues generated under the Arkansas Constitution or Arkansas law and designated by the local government for the benefit of the redevelopment district shall be deposited and from which all project costs shall be paid.

(2) The special fund may be assigned to and held by a trustee for the benefit of bondholders if tax increment financing is used.

(3) If the local governing body determines that the property located in the proposed redevelopment district is in a wholly unimproved condition, the ordinance shall state that the revenues deposited into the special fund shall be used only for project costs incurred in connection with capital improvements of a public nature.

(g)(1) The boundaries of the redevelopment district may be modified from time to time by ordinance of the local government.

(2) However, in the event any bonds, notes, or other obligations are outstanding with respect to the redevelopment district, any change in the boundaries shall not reduce the amount of tax increment available to secure such tax increment financing.

History. Acts 2001, No. 1197, § 6; 2005, No. 2231, § 2.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Tucker M. Brackins, Note: Tax Increment Financing—A Case for Bringing TIF Back to the State of Arkansas, 42 U. Ark. Little Rock L. Rev. 611 (2020).

14-168-306. Project plan — Approval.

(a)(1) Upon the creation of the redevelopment district, the local governing body shall cause the preparation of a project plan for each

redevelopment district, and the project plan shall be adopted by ordinance of the local governing body.

(2) This process shall conform to the procedures set forth in this section.

(b) Each project plan shall include:

(1) A statement listing the kind, number, and location of all proposed public works or improvements benefiting the district;

(2)(A) An economic analysis prepared by a third party independent of the local governing body that shall include the projected aggregate tax impact, if any, to taxing units as a result of the creation of a redevelopment district.

(B) The economic analysis shall include a comparison of the projected ad valorem tax revenue diverted from taxing units to the redevelopment district special fund against all projected sales, income, and ad valorem taxes received by taxing units or recaptured by taxing units from neighboring states as a result of the creation of the redevelopment district.

(C)(i) The local governing body shall submit the economic analysis to the Arkansas Economic Development Commission for review.

(ii) The commission shall review the economic analysis and provide written comments as to its economic feasibility to the local governing body no later than thirty (30) days after submission by the local governing body;

(3) A list of estimated project costs;

(4) A description of the methods of financing all estimated project costs, including the issuance of tax increment bonds;

(5) A certification by the county assessor of the base value as of the date of certification;

(6) A certification by the county clerk or county tax collector, if the county operates under the unit tax ledger system, of the total ad valorem rate, debt service ad valorem rate, and applicable ad valorem rate for the redevelopment district as of the date of certification;

(7) The type and amount of any other revenues that are expected to be deposited to the special fund of the redevelopment district;

(8) A map showing existing uses and conditions of real property in the district;

(9) A map of proposed improvements and uses in the district;

(10) Proposed changes of zoning ordinances;

(11) Appropriate cross-references to any master plan, map, building codes, and city ordinances affected by the project plan;

(12) A list of estimated nonproject costs;

(13) A statement of the proposed method for the relocation of any persons to be displaced; and

(14) An estimate of the timing, number, and types of jobs to be created by the redevelopment project.

(c) If the project plan is to include tax increment financing, the tax increment financing portion of the plan shall set forth:

(1) An estimate of the amount of indebtedness to be incurred pursuant to this subchapter;

(2) An estimate of the tax increment to be generated as a result of the project;

(3) The method for calculating the tax increment, which shall be in conformance with the provisions of this subchapter, together with any provision for adjustment of the method of calculation;

(4) Any other revenues, such as payment-in-lieu-of-taxes revenues, to be used to secure the tax increment financing; and

(5) Any other provisions as may be deemed necessary in order to carry out any tax increment financing to be used for the redevelopment project.

(d) If less than all of the tax increment is to be used to fund a redevelopment project or to pay project costs or retire tax increment financing, the project plan shall set forth the portion of the tax increment to be deposited into the special fund of the redevelopment district, and provide for the distribution of the remaining portion of the tax increment to the taxing units in which the district lies.

(e)(1) The local governing body shall hold a public hearing at which interested parties are afforded a reasonable opportunity to express their views on the proposed project plan.

(2)(A) Notice of the hearing shall be published in a newspaper of general circulation in the city or county at least fifteen (15) days prior to the hearing.

(B) Prior to this publication, a copy of the notice shall be sent by first-class mail to the chief executive officers of all local governmental and taxing entities having the power to levy taxes on property located within the proposed redevelopment district and to the superintendent of any school district which includes property located within the proposed redevelopment district.

(3) The hearing may be held in conjunction with the hearing set forth in § 14-168-305(b)(1).

(f)(1) Approval by the local governing body of a project plan must be within one (1) year after the date of the county assessor's certification required by subdivision (b)(5) of this section.

(2) The approval shall be by ordinance which contains a finding that the plan is economically feasible.

History. Acts 2001, No. 1197, § 7; 2005, No. 2317, § 1; 2005, No. 2231, § 2.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Tucker M. Brackins, Note: Tax Increment Financing—A Case for Bringing TIF Back to the State of Arkansas, 42 U. Ark. Little Rock L. Rev. 611 (2020).

14-168-307. Project plan — Amendment.

(a) The local governing body may adopt by ordinance an amendment to a project plan.

(b)(1) Adoption of an amendment to a project plan shall be preceded by a public hearing held by the local governing body as provided in § 14-168-306(e)(1), at which interested parties shall be afforded a reasonable opportunity to express their views on the amendment.

(2)(A) Notice of the hearing shall be published in a newspaper of general circulation in the city or county at least fifteen (15) days prior to the hearing.

(B) Prior to publication, a copy of the notice shall be sent by first-class mail to the chief executive officers of all local governments or entities having the power to levy taxes on property within the district and to the superintendent of any school district that includes property located within the proposed district.

(c)(1) One (1) or more existing redevelopment districts may be combined pursuant to lawfully adopted amendments to the original plans for each district.

(2) Provided that the local governing body finds that the combination of the districts will not impair the security for any bonds previously issued pursuant to this subchapter.

History. Acts 2001, No. 1197, § 8; 2005, No. 2231, § 2.

14-168-308. Termination of districts.

(a)(1) A redevelopment district shall not be in existence for a period longer than twenty-five (25) years, unless under the original redevelopment plan or by amendment of the original redevelopment plan bonds have been issued and the bonds would not be fully paid until after the date that is twenty-five (25) years from the date of creation of the district.

(2) In any event, a redevelopment district shall not be in existence for a period longer than forty (40) years.

(b) The local governing body may set a shorter period for the existence of the district and may also provide that bonds shall not have a final maturity on a date later than the termination date of the district.

(c) Upon termination of the district, further ad valorem tax revenues shall not be distributed to the special fund of the district.

(d)(1) The local governing body shall adopt upon the expiration of the time periods set forth in this section an ordinance terminating the redevelopment district.

(2) A district shall not be terminated so long as bonds with respect to the district remain outstanding.

History. Acts 2001, No. 1197, § 9; 2005, No. 2231, § 2; 2009, No. 1181, § 2.

A.C.R.C. Notes. Acts 2009, No. 1181, § 1, provided: "Legislative intent.

"(a) On November 7, 2000, the citizens of Arkansas approved Amendment 78 of the Arkansas Constitution concerning redevelopment financing.

"(b) The General Assembly adopted enabling legislation to codify Amendment 78, Arkansas Constitution, with Act 1197 of 2001 authorizing the establishment of redevelopment districts.

"(c) Among the stated purposes of Act 1197 of 2001 was the creation of a viable procedure by which local governments could finance redevelopment projects to improve the community, to improve the tax base, and to improve the general economy of the State of Arkansas by providing additional and alternative means for local governments to finance public facilities and residential, commercial, and industrial development and revitalization.

"(d) Because of the instability in financial markets and overall economy, it is necessary to modify Act 1197 of 2001 to effectuate the will of the people and the purposes of the General Assembly."

14-168-309. Costs of formation.

(a) The local government may pay, but shall have no obligation to pay, the costs of preparing the project plan or forming the redevelopment district.

(b) If the local government elects not to incur those costs, they shall be made project costs of the district and reimbursed from bond proceeds or other financing, or may be paid by developers, property owners, or other persons interested in the success of the redevelopment project.

History. Acts 2001, No. 1197, § 10.

14-168-310. Overlapping districts.

The boundaries of any redevelopment districts shall not overlap with any other redevelopment district.

History. Acts 2001, No. 1197, § 11.

14-168-311. Valuation of real property.

(a)(1) Upon and after the effective date of the creation of a redevelopment project district, the county assessor of the county in which the district is located shall transmit to the county clerk, upon the request of the local governing body, the base value, total ad valorem rate, debt service ad valorem rate, and applicable ad valorem rate for the redevelopment district and shall certify to it.

(2)(A) The assessor shall undertake, upon request of the local governing body, an investigation, examination, and inspection of the taxable real property in the district and shall reaffirm or revalue the base value for assessment of the property in accordance with the findings of the investigation, examination, and inspection.

(B) The assessor shall determine, according to his or her best judgment from all sources available to him or her, the full aggregate value of the taxable property in the district, which aggregate valuation, upon certification thereof by the assessor to the clerk, constitutes the base value of the area.

(b)(1)(A)(i) The assessor shall give notice annually to the designated finance officer of each taxing unit having the power to levy taxes on

property within each district of the current value and the incremental value of the property in the redevelopment district.

(ii) The assessor shall also determine the tax increment by applying the applicable ad valorem rate to the incremental value.

(B) The notice shall also explain that the entire amount of the tax increment allocable to property within the redevelopment district will be paid to the special fund of the redevelopment district.

(2) The assessor shall identify upon the assessment roll those parcels of property which are within each existing district specifying on it the name of each district.

History. Acts 2001, No. 1197, § 12.

14-168-312. Division of ad valorem real property tax revenue.

(a) For so long as the redevelopment district exists, the tax assessor shall divide the ad valorem tax revenue collected, with respect to taxable property in the district, as follows:

(1) The assessor shall determine for each tax year:

(A) The amount of total ad valorem tax revenue which should be generated by multiplying the total ad valorem rate times the current value;

(B) The amount of ad valorem tax revenue which should be generated by multiplying the applicable ad valorem rate times the base value;

(C) The amount of ad valorem tax revenue which should be generated by multiplying the debt service ad valorem rate times the current value; and

(D) The amount of ad valorem revenue which should be generated by multiplying the applicable ad valorem rate times the incremental value;

(2) The assessor shall determine from the calculations set forth in subdivision (a)(1) of this section the percentage share of total ad valorem revenue for each according to subdivisions (a)(1)(B)-(D) of this section, by dividing each of such amounts by the total ad valorem revenue figure determined by the calculation in subdivision (a)(1)(A) of this section; and

(3) On each date on which ad valorem tax revenue is to be distributed to taxing units, such revenue shall be distributed by:

(A) Applying the percentage share determined according to subdivision (a)(1)(B) of this section to the revenues received and distributing such share to the taxing entities entitled to such distribution pursuant to current law;

(B) Applying the percentage share determined according to subdivision (a)(1)(C) of this section to the revenues received and distributing such share to the taxing entities entitled to such distribution by reason of having bonds outstanding; and

(C) Applying the percentage share determined according to subdivision (a)(1)(D) of this section to the revenues received and distributing such share to the special fund of the redevelopment district.

(b) In each year for which there is a positive tax increment, the county treasurer shall remit to the special fund of the redevelopment district that portion of the ad valorem taxes that consists of the tax increment.

(c) Any additional moneys appropriated to the redevelopment district pursuant to an appropriation by the local governing body and any additional moneys dedicated to the fund from other sources shall be deposited to the redevelopment district fund by the treasurer of the local government.

(d) Any funds so deposited into the special fund of the redevelopment district may be used to pay project costs, principal and interest on bonds, and to pay for any other improvements of the redevelopment district deemed proper by the local governing body.

(e) Unless otherwise directed pursuant to any agreement with bondholders, moneys in the fund may be temporarily invested in the same manner as other municipal funds.

(f) If less than all of the tax increment is to be used for project costs or pledged to secure tax increment financing as provided in the plan for the redevelopment project, the assessor shall account for such fact in distributing the ad valorem tax revenues.

History. Acts 2001, No. 1197, § 13.

14-168-313. Payments in lieu of taxes and other revenues.

(a) The local governing body may elect to deposit into the special fund of the redevelopment district all or any portion of payments in lieu of taxes on property within the redevelopment district, including that portion of the payments in lieu of taxes that would have been distributed to other local political subdivisions under § 14-164-703.

(b) Other revenues to be derived from the redevelopment project may also be deposited into the special fund at the direction of the local governing body.

History. Acts 2001, No. 1197, § 14; 2005, No. 2231, § 3.

14-168-314. Bonds generally.

(a)(1) Bonds may be issued for project costs which may include interest prior to and during the carrying out of a project and for a reasonable time thereafter, with such reserves as may be required by any agreement securing the bonds and all other expenses incidental to planning, carrying out, and financing the project.

(2) The proceeds of bonds may also be used to reimburse the costs of any interim financing entered on behalf of the redevelopment district.

(b) Bonds issued under this subchapter shall be payable solely from the tax increment or other revenues deposited to the credit of the special fund of the redevelopment district and shall not be deemed to be a pledge of the faith and credit of the local government.

(c) Every bond issued under this subchapter shall recite on its face that it is a special obligation bond payable solely from the tax increment and other revenues pledged for its repayment.

History. Acts 2001, No. 1197, § 15.

14-168-315. Redevelopment bonds or notes — Authority to issue.

For the purpose of paying project costs or of refunding bonds, notes, or other evidences of indebtedness issued under this subchapter for the purpose of paying project costs, the local governing body may issue bonds, notes, or other evidences of indebtedness, in one (1) or more series, with the bonds or notes payable out of positive tax increments and other revenues deposited to the special fund of the redevelopment district.

History. Acts 2001, No. 1197, § 16; 2005, No. 2231, § 4.

14-168-316. Redevelopment bonds or notes — Authorizing resolution.

(a) Redevelopment bonds and notes shall be authorized by ordinance of the local governing body.

(b)(1) The ordinance shall state the name of the redevelopment project district, the amount of bonds or notes authorized, and the interest rate to be borne by the bonds or notes.

(2) The ordinance may prescribe the terms, form, and content of the bonds or notes and such other matters as the local governing body deems useful, or it may include by reference the terms and conditions set forth in a trust indenture or other document securing the redevelopment bonds.

History. Acts 2001, No. 1197, § 17.

14-168-317. Redevelopment bonds or notes — Terms, conditions, etc.

(a)(1) Redevelopment bonds or notes may not be issued in an amount exceeding the estimated aggregate project costs, including all costs of issuance of the bonds or notes.

(2) The redevelopment bonds and notes shall not be included in the computation of the constitutional debt limitation of a local government.

(b)(1) The bonds or notes shall mature over a period not exceeding the date of termination of the redevelopment district, as determined pursuant to § 14-168-308.

(2) The bonds or notes may contain a provision authorizing their redemption, in whole or in part, at stipulated prices, at the option of the local government on any interest payment date and, if so, shall provide the method of selecting the bonds or notes to be redeemed.

(3) The principal and interest on the bonds and notes may be payable at any place set forth in the resolution, trust indenture, or other document governing the bonds.

(4) The bonds or notes shall be issued in registered form.

(5) The bonds or notes may be in any denominations.

(6) Each such bond or note is declared to be a negotiable instrument.

(c) The bonds or notes may be sold at public or private sale.

(d) Insofar as they are consistent with subdivision (a)(1) of this section and subsections (b) and (c) of this section, the provisions of §§ 14-169-220 and 14-169-221 relating to procedures for issuance, form, contents, execution, negotiation, and registration of municipal bonds and notes are incorporated by reference in subdivision (a)(1) of this section and subsections (b) and (c) of this section.

(e)(1) The bonds may be refunded or refinanced and refunding bonds may be issued in any principal amount.

(2) Provided, that the last maturity of the refunding bonds shall not be later than the last maturity of the bonds being refunded.

History. Acts 2001, No. 1197, § 18; 2005, No. 2231, § 5.

14-168-318. Redevelopment bonds or notes — Security — Marketability.

To increase the security and marketability of redevelopment bonds or notes, the local government may:

(1) Create a lien for the benefit of the bondholders upon any public improvements or public works financed by the bonds; or

(2) Make such covenants and do any and all such actions, not inconsistent with the Arkansas Constitution, which may be necessary or convenient or desirable in order to additionally secure the bonds or notes, or which tend to make the bonds or notes more marketable according to the best judgment of the local governing body.

History. Acts 2001, No. 1197, § 19.

14-168-319. Redevelopment bonds or notes — Special fund for repayment.

(a) Redevelopment bonds and notes are payable out of the special fund created for each redevelopment district under this subchapter.

(b)(1) The local governing body shall irrevocably pledge all or part of the special fund to the payment of the bonds or notes.

(2) The special fund, or the designated part thereof, may thereafter be used only for the payment of the bonds or notes and their interest until they have been fully paid.

(c) A holder of the bonds or notes shall have a lien against the special fund for payment of the bonds or notes and interest on them and may bring suit, either at law or in equity, to enforce the lien.

History. Acts 2001, No. 1197, § 20.

14-168-320. Redevelopment bonds or notes — Tax exemption.

Bonds and notes issued under this subchapter, together with the interest and income therefrom, shall be exempt from all state, county, and municipal income taxes.

History. Acts 2001, No. 1197, § 21.

14-168-321. Excess funds.

(a) Moneys received in the special fund of the district in excess of amounts needed to pay project costs may be used only by the local governing body for the redemption of outstanding bonds, notes, or other evidences of indebtedness issued by the redevelopment district or for distribution to any taxing unit in such amounts as may be determined by the local governing body.

(b) Upon termination of the district, all amounts in the special fund of the district may be used by the local governing body for any lawful purpose.

History. Acts 2001, No. 1197, § 22; 2005, No. 2231, § 6.

Cross References. Assessment Coordination Department, § 25-28-101 et seq.

14-168-322. Impact reports.

(a) The local governing body annually shall report to the Assessment Coordination Division the current value and incremental value of a redevelopment district and the properties adjacent to the redevelopment district.

(b) The division, in cooperation with other state agencies and local governments, shall make a comprehensive impact report to the Governor and to the General Assembly at the beginning of each biennium as to the economic, social, and financial effect and impact of community redevelopment financing projects.

History. Acts 2001, No. 1197, § 23; 2005, No. 2231, § 7.

14-168-323. Value of assessed property in a redevelopment district.

(a) If state funding to a school district is calculated with regard to the value of assessed property located in the school district, the incremental value of real property within a redevelopment district shall not be included in the assessed value of the real property within the school district for purposes of computing school district funding if the real

property is located within the redevelopment district and within the school district and the assessed value of the real property increases above the base value.

(b) Subsection (a) of this section shall apply for each school year during which the tax increment for real property within the redevelopment district is distributed pursuant to § 14-168-312.

History. Acts 2003 (2nd Ex. Sess.), No. 43, § 1.

14-168-324. Exemption — Library millage.

Property taxes levied for libraries under Arkansas Constitution, Amendment 30, or Arkansas Constitution, Amendment 38, are exempt from this subchapter and shall not be diverted from the use for which they were levied.

History. Acts 2005, No. 1275, § 2.

CHAPTER 169

HOUSING AUTHORITIES AND URBAN RENEWAL AGENCIES

SUBCHAPTER.

Subchapter 1 — General Provisions

SECTION.

14-169-107. Criminal background checks on applicants to public housing authorities — Definitions.

(a) Upon the request of a public housing authority, a municipal police department may perform a criminal background check on an adult applicant to the public housing authority. The municipal police department shall require the signature of the applicant on an acceptable form permitting the public housing authority to secure the required background check.

(b) The municipal police department shall not release the criminal background records of the applicant, but shall notify the public housing authority whether or not the applicant meets the occupancy policy requirements of the public housing authority.

(c) A municipal police department may perform the criminal background check at a cost of no more than fifteen dollars ($15.00) to the public housing authority.

(d) As used in this section:

(1) "Criminal background check" means retrievable data from the criminal information system of the Arkansas Crime Information Center;

(2) "Public housing authority" means a housing authority established under § 14-169-207, a regional housing authority established under § 14-169-304, or a consolidated housing authority established under § 14-169-401; and

(3) "Occupancy policy" means legal rules and regulations for a public housing authority which outline application and residency requirements.

History. Acts 1999, No. 1473, § 1.

14-169-108. Child support cooperation — Legislative intent — Definitions.

(a) This section is:

(1) Intended to encourage and permit a public housing authority to give priority to a person who cooperates with the Office of Child Support Enforcement over a person who does not cooperate with the office;

(2) Not intended to permit a public housing authority to give priority to a person who cooperates with the office over a person who does not have a child support plan; and

(3) Not intended to penalize a custodial parent of a child or permit a public housing authority to penalize a custodial parent of a child when the noncustodial parent of the child fails to pay child support as ordered by a court.

(b) As used in this section:

(1) "Child support cooperation requirement" means cooperation as described in:

(A) The Supplemental Nutrition Assistance Program as authorized under 7 C.F.R. § 273.11, as it existed on January 1, 2021; and

(B) 7 C.F.R. § 273.11(o) and 7 C.F.R. § 273.11(p), as they existed on January 1, 2021, including without limitation the exemptions for good cause; and

(2) "Public housing authority" means a housing authority created under § 14-169-207.

(c)(1) A public housing authority shall operate, among eligible households on a waiting list for benefits, a housing-authority-wide local preference prioritizing the admission of a person who is compliant with the child support cooperation requirement, whether or not the person receives nutrition assistance benefits.

(2) A public housing authority shall determine the weight of the housing-authority-wide local preference prioritizing the admission of a person who is compliant with the child support cooperation require-

ment as compared to another applicable local preference based on local needs.

(d) A public housing authority shall:

(1) Operate a housing-authority-wide child support cooperation requirement; and

(2) Require compliance by a custodial parent or noncustodial parent as a condition of eligibility for housing benefits and assistance.

(e) This section does not permit a public housing authority to:

(1) Give priority to a person who cooperates with the office over a person who does not have a child support plan; or

(2) Penalize a custodial parent of a child when the noncustodial parent of the child fails to pay child support as ordered by a court.

History. Acts 2021, No. 1064, § 1.

A.C.R.C. Notes. Acts 2021, No. 1064, § 2, provided: "A public housing authority shall submit all required waiver applications to the United States Department of Housing and Urban Development by January 1, 2022, to obtain any necessary authority to implement this act by January 1, 2023."

Subchapter 2 — Housing Authorities in Cities and Counties

SECTION.

Effective Dates. Acts 2013, No. 1038, § 2: Jan. 1, 2014.

14-169-206. Validating provisions.

(a) The establishment and organization of housing authorities pursuant to the provisions of this subchapter, together with all proceedings, acts, and things heretofore undertaken, performed, or done with reference thereto, are validated, ratified, confirmed, approved, and declared legal in all respects, notwithstanding any defect or irregularity in them or any want of statutory authority.

(b) All contracts, agreements, obligations, and undertakings of housing authorities heretofore entered into relating to financing or aiding in the development, construction, maintenance, or operation of any housing projects or to obtaining aid for them from the United States, including without limiting the generality of the foregoing, loan and annual contributions contracts, leases with the United States, agreements with municipalities, counties, or other public bodies, including agreements which are pledged or authorized to be pledged for the protection of the holders of any notes or bonds issued by authorities or which are otherwise made a part of the contract with the holders of notes or bonds, relating to cooperation and contributions in aid of projects, payments, if any, in lieu of taxes, furnishing of services and

facilities, and the elimination of unsafe and insanitary dwellings, and contracts for the construction of housing projects, together with all proceedings, acts, and things heretofore undertaken, performed, or done with reference to them, are validated, ratified, confirmed, approved, and declared legal in all respects, notwithstanding any defect or irregularity in them or any want of statutory authority.

(c) All proceedings, acts, and things heretofore undertaken, performed, or done in or for the authorization, issuance, sale, execution, and delivery of notes and bonds by housing authorities for the purpose of financing or aiding in the development or construction of housing projects, and all notes and bonds heretofore issued by authorities, are validated, ratified, confirmed, approved, and declared legal in all respects, notwithstanding any defect or irregularity in them or any want of statutory authority.

History. Acts 1941, No. 410, §§ 1-3; A.S.A. 1947, §§ 19-3035 — 19-3037.

Publisher's Notes. This section is being set out to correct the grammar, punctuation, and word usage in (b).

14-169-207. Creation of authorities.

(a)(1) In each city and in each county of the state there is created a public body corporate and politic to be known as the "housing authority" of the city or county.

(2)(A) An authority shall not transact any business or exercise its powers under this subchapter until or unless the governing body of the city or the county, as the case may be, by proper resolution shall declare at any time that there is need for an authority to function in the city or county.

(B) The determination as to whether there is a need for an authority to function:

(i) May be made by the governing body on its own motion; or

(ii) Shall be made by the governing body upon the filing of a petition signed by twenty-five (25) residents of the city or the county, as the case may be, asserting that there is need for an authority to function in the city or county and requesting that the governing body so declare.

(b)(1) The governing body shall adopt a resolution declaring that there is need for a housing authority in the city or county, as the case may be, if it shall find that:

(A) Insanitary or unsafe inhabited dwelling accommodations exist in the city or county; or

(B) There is a shortage of safe or sanitary dwelling accommodations in the city or county available to persons of low income at rentals they can afford.

(2) In determining whether dwelling accommodations are unsafe or insanitary, the governing body may take into consideration:

(A) The degree of overcrowding;

(B) The percentage of land coverage;

(C) The light, air, space, and access available to the inhabitants of the dwelling accommodations;

(D) The size and arrangement of the rooms;

(E) The sanitary facilities; and

(F) The extent to which conditions exist in the buildings which endanger life or property by fire or other causes.

(c)(1) In any suit, action, or proceeding involving the validity or enforcement of, or relating to, any contract of the authority, the authority shall be conclusively deemed to have become established and authorized to transact business and exercise its powers under this subchapter upon proof of the adoption of a resolution by the governing body declaring the need for the authority.

(2)(A) A resolution shall be deemed sufficient if it declares that there is need for an authority and finds in substantially the foregoing terms, with no further detail being necessary, that either or both of the enumerated conditions exist in the city or county, as the case may be.

(B) A copy of the resolution, duly certified by the clerk, shall be admissible in evidence in any suit, action, or proceeding.

(d) A housing authority created under this section shall not transact any business in this state or exercise its powers under a fictitious name unless:

(1) It receives approval by its commissioners of the governing body of affairs of the state public body or, in the absence of commissioners, approval from the governing body of the city or county; and

(2)(A) It files with the county clerk a notice for recording the fictitious name under which the applicant housing authority will transact business or exercise its powers and the name of the housing authority and location of its principal office.

(B) The notice to be provided to the county clerk shall contain:

(i) The fictitious name under which the business is being, or will be, conducted;

(ii) The entity name of the applicant and the date of its housing authority resolution filed with the appropriate city or county in Arkansas;

(iii) Whether the housing authority is a public body for a city or county;

(iv) The county or city in which a copy of the housing authority resolution is filed; and

(v) The city and street address of the principal Arkansas office location of the applicant entity.

(C) The filing fee, if any, shall be the same as for any other fictitious name filed with the county clerk.

History. Acts 1937, No. 298, § 4; Pope's Dig., § 10062; A.S.A. 1947, § 19-3004; Acts 2011, No. 806, § 1; 2013, No. 1038, §§ 1, 2.

14-169-211. Powers of authority generally.

CASE NOTES

Charitable Immunity.

Court of Appeals of Arkansas, Division Three, holds that nothing in the Housing Authorities Act, § 14-169-201 et seq., can be construed as extending the doctrine of charitable immunity to housing authorities, and it further notes that logic would be offended by a legal entity simultaneously having the power "to be sued" and yet be afforded the protection of charitable immunity. Villines v. Harrison Hous. Auth., 2018 Ark. App. 154, 540 S.W.3d 343 (2018).

Subchapter 6 — Redevelopment Generally

SECTION.
14-169-604. Authority generally — Definition.

14-169-604. Authority generally — Definition.

An urban renewal agency under § 14-169-709 and any housing authority established under the Housing Authorities Act, §§ 14-169-201 — 14-169-205, 14-169-207 — 14-169-225, 14-169-227, 14-169-229 — 14-169-240, and 14-169-804, may carry out any work or undertaking to be called a "redevelopment project", to:

(1) Acquire blighted areas, which are defined as areas, including slum areas, with buildings or improvements which by reason of dilapidation, obsolescence, overcrowding, faulty arrangement or design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use or obsolete layout, or any combination of these or other factors are detrimental to the safety, health, morals, or welfare of the community;

(2) Acquire other real property for the purpose of removing, preventing, or reducing blight, blighting factors, or the causes of blight;

(3) Acquire real property where the acquisition of the area by the authority is necessary to carry out a redevelopment plan;

(4) Clear any areas acquired and install, construct, or reconstruct streets, utilities, and site improvements essential to the preparation of sites for uses in accordance with the redevelopment plan;

(5) Sell land so acquired for uses in accordance with the redevelopment plan; or

(6) Accomplish a combination of these projects to carry out a redevelopment plan.

History. Acts 1945, No. 212, § 2; A.S.A. 1947, § 19-3057; Acts 2017, No. 732, § 1.

Amendments. The 2017 amendment substituted "An urban renewal agency under § 14-169-709 and any" for "Any", substituted "under" for "pursuant to", and deleted "and any amendments thereto" preceding "may carry".

Subchapter 7 — Urban Renewal Generally

14-169-702. Definitions.

As used in §§ 14-169-708 — 14-169-713, unless the context otherwise requires:

(1) "Governing body" means the legislative body of a municipality;

(2) "Housing authority" means any public corporation created under § 14-169-207;

(3) "Municipality" means a city of the first class, a city of the second class, or an incorporated town; and

(4) "Undertaken" means:

(A) Real property has been purchased for the urban renewal project;

(B) A contract for the purchase of real property for the urban renewal project has been executed; or

(C) A housing authority has received funds for the planning or execution of the urban renewal project.

History. Acts 1945, No. 212, § 21 as added by Acts 1961, No. 40, § 1; A.S.A. 1947, § 19-3063.10; Acts 2017, No. 732, § 2.

Amendments. The 2017 amendment rewrote the section.

14-169-703. Urban renewal projects.

(a)(1) An urban renewal agency under § 14-169-709 or a housing authority under § 14-169-601 et seq. is authorized to plan and undertake urban renewal projects.

(2) As used in this subchapter, an urban renewal project may include undertakings and activities for the elimination and for the prevention of the development or spread of slums or blighted, deteriorated, or deteriorating areas and may involve any work or undertaking for such purposes constituting a redevelopment project or any rehabilitation or conservation work, or any combination of such undertaking or work. Such undertaking and work may include:

(A) Carrying out plans for a program of voluntary repair and rehabilitation of buildings or other improvements;

(B) Acquisition of:

(i) A slum area or a deteriorated or deteriorating area;

(ii) Land which is predominantly open and which, because of obsolete platting, diversity of ownership, deterioration of structures or of site improvements, or otherwise, substantially impairs or arrests the sound growth of the community;

(iii) Open land necessary for sound community growth. The requirement of this subchapter that the area be a slum area or a blighted, deteriorated, or deteriorating area shall not be applicable in the case of an open land project; or

(iv) Acquisition of any other real property in the urban renewal project area where necessary to eliminate unhealthful, insanitary, or unsafe conditions, lessen density, eliminate obsolete or other uses detrimental to the public welfare, or otherwise to remove or prevent the spread of blight or deterioration, or to provide land for needed public facilities, and demolition, removal, or rehabilitation of buildings and improvements;

(C) Installation, construction, or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary for carrying out the objectives of the urban renewal project; and

(D) The disposition, for uses in accordance with the objectives of the urban renewal project, of any property, or part of it, acquired in the area of such project. Disposition shall be in the manner prescribed in this subchapter for the disposition of property in a redevelopment project area.

(b) Notwithstanding any other provisions of this subchapter, where the local governing body certifies that an area is in need of redevelopment or rehabilitation as a result of tornado, flood, fire, hurricane, earthquake, storm, or other catastrophe respecting which the Governor has certified the need for disaster assistance under Public Law 81-875 [repealed] or other federal law, the local governing body may approve an urban renewal plan and an urban renewal project with respect to such area without regard to any provisions of this subchapter requiring that the urban renewal area is a slum area, or a blighted, deteriorated, or deteriorating area, or that the urban renewal area be predominantly residential in character or be developed or redeveloped for residential uses.

History. Acts 1945, No. 212, § 13 as added by Acts 1957, No. 189, § 1; 1959, No. 119, § 1; A.S.A. 1947, § 19-3063.2; Acts 2017, No. 732, § 3.

Amendments. The 2017 amendment substituted "An urban renewal agency under § 14-169-709 or a housing authority under § 14-169-601 et seq." for "In addition to its authority under any section of § 14-169-601 et seq., a housing authority" in (a)(1).

14-169-704. Urban renewal plan — Definition.

(a) Any urban renewal project undertaken pursuant to § 14-169-703 shall be undertaken in accordance with an urban renewal plan for the area of the project.

(b) As used in this subchapter, "urban renewal plan" means a plan as it exists from time to time for an urban renewal project. This plan shall:

(1) Conform to the general plan for the municipality as a whole; and

(2) Be sufficiently complete to indicate such land acquisition, demolition, and removal of structures, redevelopment, improvements, and rehabilitation as may be proposed to be carried out in the area of the

urban renewal project, zoning, and planning changes, if any, land uses, maximum densities, building requirements, and the plan's relationship to definite local objectives respecting appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements.

(c) An urban renewal plan shall be prepared and approved pursuant to the same procedure as provided in § 14-169-601 et seq. with respect to a redevelopment plan.

(d) If real property acquired by a municipality is to be transferred under an urban renewal plan, or such parts of the contract or plan as the housing authority or urban renewal agency may determine, the transfer may be recorded in the land records of the county in such manner as to afford actual or constructive notice of it.

History. Acts 1945, No. 212, § 14 as added by Acts 1957, No. 189, § 1; A.S.A. 1947, § 19-3063.3; Acts 2017, No. 732, § 4.

Amendments. The 2017 amendment, in (d), substituted "If real property acquired by a municipality is to be transferred under an" for "Where real property acquired by a municipality is to be transferred in accordance with the", and inserted "or urban renewal agency".

14-169-705. Powers generally — Definitions.

(a) A housing authority or an urban renewal agency shall have all the powers necessary or convenient to undertake and carry out urban renewal plans and urban renewal projects, including the authority to acquire and dispose of property, to issue bonds and other obligations, to borrow and accept grants from the United States Government or other source, and to exercise the other powers which § 14-169-601 et seq. confers on an authority with respect to redevelopment projects.

(b)(1) In connection with the planning and undertaking of any urban renewal plan or urban renewal project, the urban renewal agency, the housing authority, the municipality, and all public and private officers, agencies, and bodies shall have all the rights, powers, privileges, and immunities that each has with respect to a redevelopment plan or redevelopment project under § 14-169-601 et seq.

(2)(A) For such purposes:

(i) The word "redevelopment" as used in this subchapter, except in this section and in the definition of "redevelopment project" in § 14-169-604, shall mean "urban renewal";

(ii) The word "slum" and the word "blighted" as used in this subchapter, except in this section and in the definitions in § 14-169-604, shall mean "blighted, deteriorated, or deteriorating"; and

(iii) The finding prescribed in § 14-169-604 with respect to a blighted area shall not be required.

(B) Any disaster area referred to in § 14-169-703 shall constitute a "blighted area," and this subsection shall not change the corporate name of the authority or the short title of Acts 1945, No. 212, or amend any section of it.

(c) In addition to the surveys and plans which an authority is otherwise authorized to make, an authority is specifically authorized to make:

(1) Plans for carrying out a program of voluntary repair and rehabilitation of buildings and improvements;

(2) Plans for the enforcement of laws, codes, and regulations relating to the use of land and the use and occupancy of buildings and improvements, and to the compulsory repair, rehabilitation, demolition, or removal of buildings and improvements;

(3) Plans for the relocation of persons, including families, business concerns, and others displaced by an urban renewal project;

(4) Preliminary plans outlining urban renewal activities for neighborhoods to embrace two (2) or more urban renewal areas; and

(5) Preliminary surveys to determine if the undertaking and carrying out of an urban renewal project are feasible.

(d)(1) The authority is authorized to make relocation payments to, or with respect to, persons including families, business concerns, and others displaced by an urban renewal project, for moving expenses and losses of property for which reimbursement or compensation is not otherwise made, including the making of such payments financed by the United States Government.

(2) The authority is also authorized to develop, test, and report methods and techniques, and carry out demonstrations and other activities for the prevention and the elimination of slums and urban blight.

History. Acts 1945, No. 212, § 15 as added by Acts 1957, No. 189, § 1; A.S.A. 1947, § 19-3063.4; Acts 2017, No. 732, §§ 5, 6.

Amendments. The 2017 amendment inserted "or an urban renewal agency" in (a); and in (b)(1), substituted "the urban renewal agency, the housing authority" for "the authority", substituted "that each has" for "which they have", and substituted "under § 14-169-601 et seq." for "in the same manner as though all of the provisions of § 14-169-601 et seq. applicable to a redevelopment plan or redevelopment project were applicable to an urban renewal plan or urban renewal project".

14-169-709. Urban renewal agency created.

(a)(1) There is created in each municipality in this state, where on January 10, 1961, a housing authority has not been established or a housing authority is established but the housing authority has not undertaken an urban renewal project, a public body politic and corporate to be known as the "urban renewal agency" of the municipality for the purpose of planning and undertaking urban renewal projects.

(2) A municipality in which the urban renewal agency has ceased operation and become dormant may by resolution of the governing body revive the urban renewal agency, and upon adoption of the resolution under subsection (b) of this section, the mayor shall appoint a board of commissioners under § 14-169-710.

(b) The agency shall not transact any business or exercise any powers under this subchapter unless and until the local governing body shall have adopted a resolution finding that:

(1) One (1) or more slum, blighted, deteriorated, or deteriorating areas exist in the municipality; and

(2) The rehabilitation, conservation, redevelopment, or a combination thereof, of such areas is necessary in the interest of the public health, safety, morals, or welfare of the residents of the municipality.

History. Acts 1945, No. 212, § 19 as added by Acts 1961, No. 40, § 1; A.S.A. 1947, § 19-3063.8; Acts 2017, No. 732, § 7.

Amendments. The 2017 amendment redesignated former (a) as (a)(1); and added (a)(2).

Subchapter 11 — Targeted Neighborhood Enhancement Plan Act

SECTION.

14-169-1107. Foreclosure.

(a) If an individual under contract with the municipality fails to fulfill the commitment to live within the residential structure for the contract period, the municipality after proper notice may file a lien against the real property in the amount of the contract plus costs of foreclosure.

(b) The municipality shall be entitled to collect the amount of the contract, plus any costs of collection including attorney's fees, by either of the following methods:

(1)(A) By filing an action to foreclose the lien plus costs at any time within one (1) year of the date that the municipality has notice that the resident owner moved out of the structure in breach of contract with the municipality.

(B) In such case, the date the municipality filed the lien shall determine its priority in relation to other liens against the property; or

(2)(A)(i) If the legislative body of the municipality determines that it is in the best interests of the municipality to do so, the amount of the lien provided for in this subsection may be collected by the county clerk in the same manner as property taxes, if the municipality has filed the contract in the real estate records of the county in which the property is located.

(ii) In such case, the date of filing the contract determines the priority of the lien.

(B) In order to pursue this remedy, the municipality shall set forth the exact amount of the lien, with costs, in a resolution adopted at a hearing before the governing body of the municipality in accordance with the following procedure:

(i) The hearing shall be held not fewer than thirty (30) days after receipt of written notice by certified mail, with restricted delivery and

return receipt requested, to the owner of the property if the name and whereabouts of the owner are known;

(ii) If the name and whereabouts of the owner cannot be determined, or if restricted delivery of certified mail is not accomplished, then the hearing to determine the amount shall be held not fewer than fourteen (14) days after publication of notice of the hearing in a newspaper having a bona fide circulation in the county where the property is located for one (1) insertion per week for four (4) consecutive weeks; and

(iii)*(a)* The amount so determined at the hearing, plus a ten percent (10%) penalty for collection, shall be certified by the governing body of the municipality to the tax collector of the county where the municipality is located and placed by the collector on the tax books as delinquent taxes and collected accordingly.

(b) The amount, less three percent (3%) thereof, when so collected shall be paid to the municipality by the county tax collector.

History. Acts 1997, No. 320, § 7; 2001, No. 1801, § 1.

CHAPTER 171

TOURIST FACILITIES

SUBCHAPTER.

2. City-County Tourist Meeting and Entertainment Facilities.

Subchapter 2 — City-County Tourist Meeting and Entertainment Facilities

SECTION.

14-171-202. [Repealed.]
14-171-203. Definition.
14-171-204 — 14-171-209. [Repealed.]
14-171-210. State assistance.
14-171-212. City-County Tourist Facilities Aid Fund — Transfer of funds.
14-171-213. [Repealed.]
14-171-215. Payments to localities.
14-171-218. Future applicants.

Effective Dates. Acts 2001, No. 1073, § 9: Mar. 26, 2001. Emergency clause provided: "It is hereby found and determined by the Eighty-third General Assembly that confusion exists regarding the entities which qualify for monies available under the City-County Tourist Meeting and Entertainment Facilities Assistance Law. That the provisions set forth will establish the methods for awarding monies in the future, establish the amount of monies the eligible entities will receive, and set forth the fund from which the monies will be appropriated. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the

veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2007, No. 491, § 2: Mar. 26, 2007. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that funds provided by the General Assembly for the operation of the Arkansas State Fair and Livestock Show Association are, due to unforeseen circumstances, insufficient for the Arkansas State Fair and Livestock Show Association to continue to provide essential governmental services; that the provisions of this act will provide the necessary moneys for the Arkansas State Fair and Livestock Show Association to continue such services; and that a delay in the effective date of this act could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2015, No. 684, § 5: July 1, 2015. Emergency clause provided: "It is found and determined by the General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a one (1) year period; that the effectiveness of this Act on July 1, 2015 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the legislative session, the delay in the effective date of this Act beyond July 1, 2015 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2015."

Acts 2019, No. 82, § 23: July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the General Improvement Fund should no longer be utilized; that the Development and Enhancement Fund is necessary to complete unfinished state projects; and that this act is necessary to address infrastructure needs and unanticipated needs of the State of Arkansas. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

Acts 2019, No. 1006, § 78: July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a one (1) year period; that the effectiveness of this Act on July 1, 2019 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the legislative session, the delay in the effective date of this Act beyond July 1, 2019 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2019."

14-171-202. [Repealed.]

Publisher's Notes. This section, concerning legislative determinations, was repealed by Acts 2001, No. 1073, § 1. The section was derived from Acts 1977, No. 763, § 2; A.S.A. 1947, § 19-5502; Acts 1993, No. 164, §§ 1, 2; 1995, No. 1156, § 2; 1997, No. 753, § 3.

14-171-203. Definition.

As used in this subchapter, unless the context otherwise requires, "eligible facility" means a facility:

(1) With a valid agreement entered into with the State Board of Finance pursuant to this subchapter as of June 30, 2000; or

(2) That has submitted an application to the State Board of Finance for assistance under the provisions of this subchapter as of January 1, 2001.

History. Acts 1977, No. 763, § 3; 1979, No. 212, § 2; A.S.A. 1947, § 19-5503; Acts 1991, No. 647, § 1; 1993, No. 164, § 3; 1995, No. 185, §§ 1, 2; 1995, No. 269, §§ 1, 2; 1995, No. 1156, § 3; 1997, No. 753, § 2; 2001, No. 1073, § 2.

14-171-204 — 14-171-209. [Repealed.]

Publisher's Notes. These sections, concerning application for assistance generally, contents of application, review of application, hearings, determination of eligibility, and determination of additional state sales and income tax revenues from facility, were repealed by Acts 2001, No. 1073, § 3. The sections were derived from the following sources:

14-171-204. Acts 1977, No. 763, § 4; 1979, No. 212, § 3; 1979, No. 569, § 2; A.S.A. 1947, § 19-5504; Acts 1993, No. 164, § 4.

14-171-205. Acts 1977, No. 763, § 4; A.S.A. 1947, § 19-5504.

14-171-206. Acts 1977, No. 763, § 4; A.S.A. 1947, § 19-5504.

14-171-207. Acts 1977, No. 763, § 4; A.S.A. 1947, § 19-5504.

14-171-208. Acts 1977, No. 763, § 4; 1979, No. 212, § 4; 1979, No. 569, § 3; A.S.A. 1947, § 19-5504; Acts 1993, No. 164, §§ 5, 6.

14-171-209. Acts 1977, No. 763, § 4; A.S.A. 1947, § 19-5504.

14-171-210. State assistance.

The payments provided for in this subchapter shall be subject to the approval of and specific appropriation by the General Assembly and shall be for a term of not longer than two (2) years, but may be extended from time to time for additional terms of not to exceed two (2) years each, subject to the approval of and appropriation by the General Assembly.

History. Acts 1977, No. 763, § 4; 1979, No. 212, § 5; 1979, No. 569, § 4; A.S.A. 1947, § 19-5504; Acts 1989, No. 821, § 4; 1993, No. 164, § 7; 1995, No. 1156, § 4; 1997, No. 753, § 4; 2001, No. 1073, § 4.

14-171-212. City-County Tourist Facilities Aid Fund — Transfer of funds.

(a) The Treasurer of State, before making the percentage distributions of general revenues as provided by law, shall deduct from the General Revenue Fund Account of the State Apportionment Fund an amount of moneys necessary to meet the quarterly payments to cities and counties that are associated with the eligible facilities and shall credit them to the City-County Tourist Facilities Aid Fund.

(b) The Treasurer of State shall make no deductions or credits pursuant to this section in any biennium for which the General Assembly has not approved payments under this subchapter and appropriated funds for them.

History. Acts 1977, No. 763, § 5; 1979, No. 212, § 6; 1979, No. 569, § 5; 1983, No. 356, § 1; A.S.A. 1947, § 19-5505; Acts 1993, No. 164, § 8; 1995, No. 1156, § 5; 1997, No. 753, § 5; 2001, No. 1073, § 5.

14-171-213. [Repealed.]

Publisher's Notes. This section, concerning disbursements of the city-county tourist facilities aid fund, was repealed by Acts 2001, No. 1073, § 6. The section was derived from Acts 1977, No. 763, § 5; 1979, No. 212, § 6; 1979, No. 569, § 5; 1983, No. 356, § 1; A.S.A. 1947, § 19-5505; Acts 1993, No. 164, § 9; 1995, No. 1156, § 6; 1997, No. 753, § 6.

14-171-215. Payments to localities.

(a) Payments of state assistance to cities and counties under an agreement with the eligible facilities shall be made as follows:

(1) The Fort Smith Convention Center or its bond trustee shall receive:

(A) One million seven hundred ninety-five thousand eight hundred twenty-seven dollars ($1,795,827) in the fiscal year 2009; and

(B) One million seven hundred seventy-seven thousand four hundred forty-six dollars ($1,777,446) in the fiscal year 2010;

(2) The Texarkana Four States Fair, Inc., or its bond trustee shall receive:

(A) Two hundred thirty-five thousand eight hundred thirty-eight dollars ($235,838) in the fiscal year 2009; and

(B) Two hundred ten thousand six hundred thirty-eight dollars ($210,638) in the fiscal year 2010;

(3) The Hot Springs Advertising and Promotion Commission Convention Center or its bond trustee shall receive:

(A) Two million four hundred fifty-four thousand two hundred thirty dollars ($2,454,230) in the fiscal year 2009;

(B) Two million four hundred fifty-three thousand two hundred thirty dollars ($2,453,230) in the fiscal year 2010;

(C) Two million four hundred fifty-four thousand seven hundred seventy dollars ($2,454,770) in the fiscal year 2011; and

(D) Two million four hundred fifty-four thousand four hundred thirty dollars ($2,454,430) in the fiscal year 2012;

(4) The City of Little Rock Convention and Visitors Bureau or its bond trustee shall receive:

(A) One million nine hundred thirty-eight thousand twenty-two dollars ($1,938,022) in the fiscal year 2009;

(B) One million nine hundred thirty-seven thousand ninety dollars ($1,937,090) in the fiscal year 2010;

(C) One million nine hundred thirty-two thousand five dollars ($1,932,005) in the fiscal year 2011;

(D) One million nine hundred twenty-seven thousand eight hundred seventy-four dollars ($1,927,874) in the fiscal year 2012;

(E) One million nine hundred twenty-one thousand forty-six dollars ($1,921,046) in the fiscal year 2013;

(F) One million nine hundred eighteen thousand two hundred dollars ($1,918,200) in the fiscal year 2014;

(G) One million nine hundred eleven thousand eight hundred thirty-five dollars ($1,911,835) in the fiscal year 2015; and

(H) One hundred fifty-nine thousand two hundred seventy-three dollars ($159,273) in the fiscal year 2016; and

(5) The Arkansas State Fair and Livestock Show Association or its bond trustee shall receive the moneys listed in this subdivision (a)(5), less any general revenues appropriated to the Arkansas State Fair and Livestock Show:

(A) Seven hundred ten thousand three hundred twenty-eight dollars ($710,328) in the fiscal year 2009;

(B) Eight hundred eighty-seven thousand nine hundred eight dollars ($887,908) in the fiscal year 2010;

(C) Eight hundred eighty-seven thousand nine hundred eight dollars ($887,908) in the fiscal year 2011;

(D) Eight hundred eighty-seven thousand nine hundred eight dollars ($887,908) in the fiscal year 2012;

(E) Eight hundred eighty-seven thousand nine hundred eight dollars ($887,908) in the fiscal year 2013;

(F) Eight hundred eighty-seven thousand nine hundred eight dollars ($887,908) in the fiscal year 2014;

(G) Eight hundred eighty-seven thousand nine hundred eight dollars ($887,908) in the fiscal year 2015;

(H) Eight hundred eighty-seven thousand nine hundred eight dollars ($887,908) in the fiscal year 2016;

(I) Eight hundred eighty-seven thousand nine hundred eight dollars ($887,908) in the fiscal year 2017;

(J) Eight hundred eighty-seven thousand nine hundred eight dollars ($887,908) in the fiscal year 2018;

(K) Eight hundred eighty-seven thousand nine hundred eight dollars ($887,908) in the fiscal year 2019;

(L) Eight hundred eighty-seven thousand nine hundred eight dollars ($887,908) in the fiscal year 2020;

(M) Eight hundred eighty-seven thousand nine hundred eight dollars ($887,908) in the fiscal year 2021;

(N) Eight hundred eighty-seven thousand nine hundred eight dollars ($887,908) in the fiscal year 2022;

(O) Eight hundred eighty-seven thousand nine hundred eight dollars ($887,908) in the fiscal year 2023;

(P) Eight hundred eighty-seven thousand nine hundred eight dollars ($887,908) in the fiscal year 2024; and

(Q) Eight hundred eighty-seven thousand nine hundred eight dollars ($887,908) in the fiscal year 2025.

(b)(1) The payments provided in subsection (a) of this section are based on expense or debt service schedules in effect on January 1, 2001.

(2) The eligible facilities shall receive the dollar amounts of state assistance by fiscal year, as reflected in subsection (a) of this section, regardless of refinancing, payment, or prepayment of outstanding debt.

(3) The Treasurer of State shall make quarterly payments from the City-County Tourist Facilities Aid Fund to the eligible facilities in accordance with subsection (a) of this section.

History. Acts 1977, No. 763, § 6; 1979, No. 212, § 7; 1979, No. 569, § 6; A.S.A. 1947, § 19-5506; Acts 1993, No. 164, § 10; 1995, No. 1156, § 7; 1997, No. 753, § 7; 2001, No. 1073, § 7; 2003, No. 1757, § 1; 2007, No. 491, § 1; 2009, No. 163, § 3; 2009, No. 690, § 1; 2015, No. 684, § 2; 2019, No. 1006, § 75.

Amendments. The 2019 amendment added (a)(5)(M) through (a)(5)(Q).

14-171-218. Future applicants.

Any applications submitted after January 1, 2001, for state aid for the expansion of eligible facilities or for new facilities shall be submitted to the General Assembly and any appropriation for the expansion or new facility shall be made from the General Improvement Fund or its successor fund or fund accounts, including the Development and Enhancement Fund.

History. Acts 2001, No. 1073, § 8; 2019, No. 82, § 6.

A.C.R.C. Notes. Acts 2019, No. 82, § 1, provided: "Legislative intent. It is the intent of the General Assembly that the creation of the Development and Enhancement Fund is necessary to provide a mechanism to disburse funds for:

"(1) Various construction and improvement projects;

"(2) Unforeseen needs;

"(3) Funding deficiencies; and

"(4) The completion of projects previously funded by the General Assembly."

Amendments. The 2019 amendment added "including the Development and Enhancement Fund".

CHAPTER 172

HISTORIC DISTRICTS

SUBCHAPTER.

2. Cities and Towns.

Subchapter 2 — Cities and Towns

SECTION.

14-172-207. Establishment of historic districts.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act estab-

lishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

14-172-207. Establishment of historic districts.

By ordinance adopted by vote of the governing body thereof, any city, town, or county may establish historic districts and may make appropriations for the purpose of carrying out the provisions of this subchapter, subject to the following provisions:

(1)(A)(i) An historic district commission, established as provided in § 14-172-206, shall make an investigation and report on the historic significance of the buildings, structures, features, sites, or surroundings included in any such proposed historic district and shall transmit copies of its report to the Arkansas Historic Preservation Program, a division of the Division of Arkansas Heritage, to the planning commission of the municipality or county, if any, and in the absence of such commission, to the governing body of the municipality or county for its consideration and recommendation.

(ii) Each such body or individual shall give its recommendation to the historic district commission within sixty (60) days from the date of receipt of the report.

(B)(i) Recommendations shall be read in full at the public hearing to be held by the commission as specified in this section.

(ii) Failure to make recommendations within sixty (60) days after the date of receipt shall be taken as approval of the report of the commission;

(2)(A) The commission shall hold a public hearing on the establishment of a proposed historic district after giving notice of the hearing by publication in a newspaper of general circulation in the municipality or county once a week for three (3) consecutive weeks, the first such publication to be at least twenty (20) days prior to the public hearing.

(B) The notice shall include the time and place of the hearing, specify the purpose, and describe the boundaries of the proposed historic district;

(3)(A) The commission shall submit a final report with its recommendations and a draft of a proposed ordinance to the governing body of the municipality or county within sixty (60) days after the public hearing.

(B) The report shall contain the following:

(i) A complete description of the area or areas to be included in the historic district. Any single historic district may embrace noncontiguous lands;

(ii) A map showing the exact boundaries of the area to be included within the proposed district;

(iii) A proposed ordinance designed to implement the provisions of this subchapter; and

(iv) Such other matters as the commission may deem necessary and advisable;

(4) The governing body of the municipality or county, after reviewing the report of the commission, shall take one (1) of the following steps:

(A) Accept the report of the commission and enact an ordinance to carry out the provisions of this subchapter;

(B) Return the report to the commission, with such amendments and revisions thereto as it may deem advisable, for consideration by the commission and a further report to the governing body of the municipality or county within ninety (90) days of such return; or

(C) Reject the report of the commission, stating its reasons therefor, and discharge the commission; and

(5) The commission established under the provisions of this subchapter, by following the procedures set out in subdivisions (2)-(4), inclusive, of this section, may, from time to time, suggest proposed amendments to any ordinance adopted under this section or suggest additional ordinances to be adopted under this section.

History. Acts 1963, No. 484, § 3; 1965, No. 170, § 1; 1977, No. 480, § 11; A.S.A. 1947, § 19-5003; Acts 1993, No. 194, § 3; 2019, No. 910, § 5621.

Amendments. The 2019 amendment substituted "Division of Arkansas Heritage" for "Department of Arkansas Heritage" in (1)(A)(i).

CHAPTER 174

ECONOMIC DEVELOPMENT TAX

Effective Dates. Acts 2009, No. 1480, § 117: Apr. 10, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act makes various revisions to Arkansas election laws that are designed to improve the administration of elections and special elections and that these revisions should be implemented as soon as possible so that the citizens of this state may benefit from improved election procedures. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Gov-

ernor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2017, No. 686, § 6: Mar. 27, 2017. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the state has been disadvantaged by its inability to effectively compete for economic development projects and economic development services; that attracting and developing economic development projects and economic development services would significantly benefit the economic development of the state by providing increased payrolls, job opportunities, and tax income; that the citizens of the state recognized the missed opportunities caused by this competitive disadvantage by overwhelmingly approving Arkansas Constitution, Amendment 97; and that this act is immediately necessary to effectuate the will of the citizens of Arkansas and to position the state to act expeditiously in securing economic development projects and economic development services. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

14-174-101. Purpose.

The purpose of this subchapter is to provide cities and counties with the authority to levy taxes to raise revenue for funding economic development projects to stimulate the local economy and to support private sector job creation opportunities. No funds generated by any tax levied pursuant to this subchapter shall be used as general operating revenue, but shall be expended for the purposes prescribed by §§ 14-174-105 — 14-174-107 or § 14-174-109.

History. Acts 1993, No. 1012, § 1; 1993, No. 1069, § 1; 2005, No. 1372, § 1.

14-174-102. Definitions.

As used in this subchapter, unless the context otherwise requires:

(1) "County" means each of the counties of this state;

(2) "Municipality" and "city" mean any city or incorporated town in this state; and

(3) [Repealed.]

(4) "Local government" means city or county.

History. Acts 1993, No. 1012, § 2; 1993, No. 1069, § 2; 2019, No. 910, § 3393.

Amendments. The 2019 amendment repealed (3).

14-174-103. Levy of new taxes permitted.

(a)(1) In addition to all other authority of local governments to levy taxes provided by law, any county, acting through its quorum court, or any municipality, acting through its governing body, may levy any tax.

(2)(A) However, no ordinance levying any tax authorized by this subchapter shall be valid until adopted at a special election in accordance with § 7-11-201 et seq. by qualified electors of the city or in the county where the tax is to be imposed, as the case may be.

(B) An election will also be required to increase, decrease, or repeal a tax levied pursuant to this subchapter.

(b) Nothing in this subchapter shall be construed to diminish the existing powers of county governments or city governments.

(c) Nothing in this subchapter shall terminate, repeal, or otherwise affect any other tax levied by a local government.

(d) The local government levying the tax shall collect and administer the tax.

History. Acts 1993, No. 1012, § 3; 1993, No. 1069, § 3; 2005, No. 2145, § 48; 2007, No. 1049, § 69; 2009, No. 1480, § 88.

14-174-105. Disposition of funds — Definitions.

(a) As used in this section:

(1) "Economic development project" means the land, buildings, furnishings, equipment, facilities, infrastructure, and improvements that are required or suitable for the development, retention, or expansion of:

(A) Manufacturing, production, and industrial facilities;

(B) Research, technology, and development facilities;

(C) Recycling facilities;

(D) Distribution centers;

(E) Call centers;

(F) Warehouse facilities;

(G) Job training facilities;

(H) Regional or national corporate headquarters facilities; and

(I) Sports complexes designed to host local, state, regional, and national competitions, including without limitation baseball, softball, and other sports tournaments;

(2) "Economic development service" means:

(A) Planning, marketing, and strategic advice and counsel regarding job recruitment, job development, job retention, and job expansion;

(B) Supervision and operation of industrial parks or other such properties; and

(C) Negotiation of contracts for the sale or lease of industrial parks or other such properties; and

(3) "Infrastructure" means:

(A) Land acquisition;

(B) Site preparation;

(C) Road and highway improvements;

(D) Rail spur, railroad, and railport construction;

(E) Water service;

(F) Wastewater treatment;

(G) Employee training, which may include equipment for such purpose; and

(H) Environmental mitigation or reclamation.

(b) The taxes levied under this subchapter may be utilized:

(1) For construction, reconstruction, demolition, site development, contracts, and related costs associated with the creation, expansion, and rehabilitation of water or sewer systems, streets and roads, bridges, drainage, and other vital public facilities;

(2) To establish and operate local economic development programs;

(3) To obtain or appropriate money for a corporation, association, institution, or individual to:

(A) Finance an economic development project; or

(B) Provide economic development services; and

(4) As a pledge to secure the issuance of bonds under the Local Government Bond Act of 1985, § 14-164-301 et seq., by a municipality, a county, or a corporation organized under the Public Corporations for Economic Development Act, § 14-175-101 et seq.

History. Acts 1993, No. 1012, § 5; 1993, No. 1069, § 5; 2017, No. 686, § 2; 2019, No. 1072, § 4.

A.C.R.C. Notes. Acts 2017, No. 686, § 1, provided: "Legislative findings and intent.

"(a) The General Assembly finds that economic development would be enhanced if tax funds authorized under § 14-174-103 were permitted to be used for the full extent of the economic development purposes authorized under Arkansas Constitution, Amendment 62, and Arkansas Constitution, Amendment 97.

"(b) The General Assembly intends for this act to permit economic development tax funds to be used for the purposes authorized under Arkansas Constitution, Amendment 62, and Arkansas Constitution, Amendment 97."

Amendments. The 2017 amendment rewrote the section.

The 2019 amendment added (a)(1)(I).

14-174-109. Public corporation for economic development.

(a) The sales and use taxes levied or authorized under this subchapter may be used for the sole use and benefit of a corporation organized under the Public Corporations for Economic Development Act, § 14-175-101 et seq.

(b)(1) On receipt from the Secretary of the Department of Finance and Administration of the net proceeds of the sales and use tax levied or authorized under this subchapter, the local government shall deliver all of the proceeds to the corporation to use in carrying out its functions.

(2) However, if the sales and use taxes levied under this subchapter are pledged to secure the issuance of bonds by a corporation under § 14-174-105(b)(4), upon approval by resolution of the corporation, the local government shall hold the proceeds separate and apart in trust, as directed by the corporation.

(c) At an election called and held under § 14-174-103, the local government may also allow the voters to vote on a ballot proposition that limits the length of time that a sales and use tax may be imposed.

History. Acts 2005, No. 1372, § 2; 2017, No. 686, § 3; 2019, No. 910, § 3394.

A.C.R.C. Notes. Acts 2017, No. 686, § 1, provided: "Legislative findings and intent.

"(a) The General Assembly finds that economic development would be enhanced if tax funds authorized under § 14-174-103 were permitted to be used for the full extent of the economic development purposes authorized under Arkansas Constitution, Amendment 62, and Arkansas Constitution, Amendment 97.

"(b) The General Assembly intends for this act to permit economic development tax funds to be used for the purposes authorized under Arkansas Constitution, Amendment 62, and Arkansas Constitution, Amendment 97."

Amendments. The 2017 amendment added (b)(2).

The 2019 amendment substituted "Secretary of the Department of Finance and Administration" for "Director of the Department of Finance and Administration" in (b)(1).

CHAPTER 175

PUBLIC CORPORATIONS FOR ECONOMIC DEVELOPMENT ACT

Effective Dates. Acts 2017, No. 686, § 6: Mar. 27, 2017. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the state has been disadvantaged by its inability to effectively compete for economic development projects and economic development services; that attracting and developing economic development projects and economic development services would significantly benefit the economic development of the state by providing increased payrolls, job opportunities, and tax income; that the citizens of the state recognized the missed opportunities caused by this competitive disadvantage by overwhelmingly approving Arkansas Constitution, Amendment 97; and that this act is immediately necessary to effectuate the will of the citizens of Arkansas and to position the state to act expeditiously in securing economic development projects and economic development services. Therefore, an emergency is declared

to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

14-175-101. Title.

This chapter shall be known and may be cited as the "Public Corporations for Economic Development Act".

History. Acts 2005, No. 1372, § 3.
A.C.R.C. Notes. Arkansas Nonprofit Corporation Act of 1993, see also § 4-33-101 et seq.

14-175-102. Intent.

It is the intent of the General Assembly by the enactment of this chapter to authorize in each municipality and county in this state the incorporation of a public corporation as a political subdivision of the state for the purpose of securing and developing industry and fostering economic development and to invest the corporation with all powers that may be necessary to enable it to accomplish those purposes.

History. Acts 2005, No. 1372, § 3.

14-175-103. Definitions.

As used in this chapter:

(1) "Board" means the board of directors of a corporation;

(2) "Corporation" means a corporation organized under this chapter;

(3)(A) "Costs" means expenditures made or estimated to be made and monetary obligations incurred or estimated to be incurred by a corporation.

(B) "Costs" includes, but is not limited to:

(i) Real property assembly costs, including, but not limited to, those costs incurred for and in connection with the acquisition of interests in real property and improvements and any deficit incurred as a result of the sale or lease as lessor by the corporation of real or personal property or a project for consideration which is less than its cost to the corporation;

(ii) Capital costs, including, but not limited to:

(a) The actual costs of the construction of new buildings, structures, and fixtures;

(b) The demolition, alteration, expansion, remodeling, repair, or reconstruction of existing buildings, structures, and fixtures and the environmental remediation of real property;

(c) Parking;

(d) Landscaping;

(e) The acquisition of equipment; and

(f) Site clearing, grading, and preparation;

(iii) Financing costs, including, but not limited to:

(a) All interest paid to holders of evidences of indebtedness issued to pay for project costs;

(b) All costs of issuance; and

(c) Any redemption premiums, credit enhancement, or other related costs;

(iv) Research and development costs;

(v) Professional service costs, including, but not limited to, those costs incurred for architectural, planning, engineering, accounting, and legal advice and services;

(vi) Relocation costs;

(vii) Organizational and administrative costs incurred by the corporation, including, but not limited to, the costs of:

(a) Conducting feasibility studies, environmental impact studies, and other studies; and

(b) Informing the public with respect to a project;

(viii) The amount of any contributions made in connection with a project; and

(ix) Costs related to the construction of environmental protection devices, storm or sanitary sewer lines, water lines, or amenities or streets or the rebuilding or expansion of streets in connection with a project;

(4) "County" means any county in this state;

(5) "Enterprise" means any for-profit or nonprofit corporation, partnership, sole proprietorship, firm, franchise, association, organization, or trust, or any other form of legal entity;

(6) "Governing body" means the council, board of directors, or other like body in which the legislative functions of a municipality are vested or the quorum court of the county as it has been constituted and acting as the legislative body of the county under Arkansas Constitution, Amendment 55, or if not so constituted and acting, the county court of the county;

(7) "Municipality" means any incorporated city or town in this state;

(8) "Primary job" means a job that is available or expected to become available at an enterprise:

(A) For which a majority of the products or services of that enterprise are ultimately used in regional, statewide, national, or international markets infusing new dollars into the local economy; and

(B) That derives less than ten percent (10%) of its total Arkansas revenue from sales to the general public;

(9)(A) "Project" means an undertaking related to the creation or retention of primary jobs.

(B) A project may include one (1) or more of the following:

(i) The acquisition and disposition of land, buildings, equipment, facilities, related infrastructure, and improvements necessary to:

(a) Attract, promote, or develop new or expanded enterprises that will create or retain primary jobs in the future; or

(b) Provide job training and postsecondary education required or suitable for the creation or retention of primary jobs;

(ii) The construction or expansion of buildings, facilities, related infrastructure, and improvements necessary to attract, promote, or develop new or expanded enterprises that will create or retain primary jobs in the future or to provide job training and postsecondary education required or suitable for the creation or retention of primary jobs;

(iii) Job training required or suitable for the creation or retention of primary jobs;

(iv) Postsecondary education required or suitable to educate students in fields of study needed by enterprises providing primary jobs; and

(v) Expenditures found by the corporation to be required or suitable for infrastructure necessary to attract, promote, or develop new or expanded enterprises, limited to:

(a) Streets and roads;

(b) Parking;

(c) Rail spurs;

(d) Water and electric utilities;

(e) Gas utilities;

(f) Drainage and related improvements;

(g) Telecommunications;

(h) Data communications; and

(i) Internet improvements; and

(10) "State" means the State of Arkansas.

History. Acts 2005, No. 1372, § 3.

14-175-104. Construction.

(a) This chapter shall be liberally construed in conformity with its intent.

(b)(1) All acts and activities of the public corporation performed under the authority of this chapter are legislatively determined and declared to be essential governmental functions.

(2) The General Assembly determines and declares that this chapter is the sole authority necessary for the performance of the acts authorized by this chapter.

History. Acts 2005, No. 1372, § 3.

14-175-105. Authority generally.

There is conferred upon corporations incorporated as public corporations under this chapter the authority to take such action and to do or cause to be done such things as shall be necessary or desirable to accomplish and implement the purposes and intent of this chapter according to the import of this chapter.

History. Acts 2005, No. 1372, § 3.

14-175-106. Authority and procedure to incorporate.

(a) Whenever any number of natural persons, but not fewer than three (3), files with the governing body an application in writing for authority to incorporate a public corporation under this chapter, if it is made to appear to the governing body that each of the persons is a duly qualified elector of the municipality or county creating the corporation and if the governing body adopts a resolution that declares that it will be wise, expedient, and necessary that a public corporation be formed and that the persons filing the application may proceed to form a corporation, then the persons shall become the incorporators of and shall proceed to incorporate the corporation in the manner provided in this chapter.

(b) No corporation shall be formed under this chapter unless:

(1) The application provided for in this section is made; and

(2) The resolution provided for in this section is adopted.

(c) No county or municipality may authorize more than one (1) corporation under this chapter.

History. Acts 2005, No. 1372, § 3.

14-175-107. Articles of incorporation.

(a) The articles of incorporation of the corporation shall state:

(1) The names of the persons forming the corporation, together with the residence of each person forming the corporation, and a statement that each person is a qualified elector of the municipality or county;

(2) The name of the corporation, which shall be:

(A) "The Economic Development Corporation of [City], Arkansas";

(B) "The Economic Development Corporation of [Town], Arkansas";

(C) "The Economic Development Corporation of [County], Arkansas"; or

(D) Some other name of similar import; and

(3) Any other matters relating to the corporation required by the Arkansas Nonprofit Corporation Act of 1993, § 4-33-101 et seq., or that the incorporators may choose to insert, and which are not inconsistent with this chapter or with the laws of this state.

(b)(1) The form and content of the articles of incorporation shall be submitted to the governing body for its approval.

(2) The governing body shall evidence approval by a resolution entered upon the minutes of the governing body.

History. Acts 2005, No. 1372, § 3.

14-175-108. Execution and recording of articles.

(a) The articles of incorporation shall be signed and acknowledged by the incorporators and shall have attached to them a certified copy of the resolution required by § 14-175-107.

(b)(1) The articles of incorporation, together with a certified copy of the resolution required by § 14-175-107, shall be filed in the location or locations required by the Arkansas Nonprofit Corporation Act of 1993, § 4-33-101 et seq.

(2) When the articles of incorporation and attached resolution have been so filed, the corporation referred to in the articles shall come into existence and shall constitute a body corporate and politic and a political subdivision of the state under the name set forth in the articles of incorporation, whereupon the corporation shall be vested with the rights and powers granted in this chapter.

History. Acts 2005, No. 1372, § 3.

14-175-109. Board of directors.

(a) The corporation shall have a board of directors composed of five (5) to fifteen (15) members, as specified in the corporation's articles of incorporation.

(b) All powers of the corporation shall be exercised by the board or pursuant to its authorization.

(c)(1)(A) The directors shall be residents of the municipality or county creating the corporation and shall be appointed by the mayor of the creating municipality or the county judge of the creating county, subject to confirmation by the governing body of the municipality or county.

(B) The directors shall serve terms not exceeding five (5) years as determined by the governing body of the municipality or county and set in such manner as will result in the expiration of terms on a staggered basis.

(2) Upon the expiration of a director's term, a successor director shall be appointed for a five-year term by the mayor of the creating municipality or the county judge of the creating county, subject to confirmation by the governing body of the municipality or county.

(3) Each director shall serve until his or her successor is elected and qualified.

(4) A director shall be eligible to succeed himself or herself.

(5) In the event of a vacancy in the membership of the board, however caused, a director shall be appointed by the mayor of the creating municipality or the county judge of the creating county, subject to confirmation by the governing body of the municipality or county.

(d) Each director shall qualify by taking and filing with the clerk of the municipality or county creating the corporation the oath of office in which the member shall swear to support the United States Constitution and the Arkansas Constitution and to discharge faithfully his or her duties in the manner provided by law.

(e) A director shall receive no compensation for his or her services but shall be entitled to reimbursement for reasonable and necessary expenses incurred in the performance of his or her duties.

(f) After reasonable notice of and an opportunity to be heard concerning the alleged grounds for removal, the mayor of the municipality or the county judge of the county which created the board may remove any director for misfeasance, malfeasance, or willful neglect of duty.

(g)(1) A majority of the members of the board shall constitute a quorum for the transaction of business.

(2) No vacancy in the membership of the board shall impair the right of a quorum to exercise all the powers and duties of the corporation.

History. Acts 2005, No. 1372, § 3; 2009, No. 1271, § 1.

14-175-110. Officers.

(a)(1) The officers of the corporation shall consist of:

(A) A chair;

(B) A vice chair;

(C) A secretary;

(D) A treasurer; and

(E) Such other officers as the board shall deem necessary to accomplish the purposes for which the corporation was organized.

(2) The offices of secretary and treasurer may be held, but need not be held, by the same person.

(b)(1) The chair and vice chair of the corporation shall be elected by the board from its membership.

(2) The secretary, the treasurer, and any other officers of the corporation who may be, but need not be, members of the board shall also be elected by the board.

History. Acts 2005, No. 1372, § 3.

14-175-111. Powers generally.

(a) The corporation shall have and exercise all of the rights, powers, privileges, authority, and functions given by the general laws of this state to nonprofit corporations incorporated under the Arkansas Nonprofit Corporation Act of 1993, § 4-33-101 et seq.

(b) In addition to the rights, powers, privileges, authority, and functions authorized under subsection (a) of this section, the corporation shall have the following powers with respect to projects, together with all powers incidental to those powers or necessary for the performance of those powers set forth in this subsection:

(1) To receive sales and use taxes levied under § 14-174-101 et seq., from the local government or governments under whose authority the corporation was created;

(2) To acquire, whether by construction, devise, purchase, gift, lease, or otherwise or any one (1) or more of those methods and to construct,

improve, maintain, equip, and furnish one (1) or more projects located within the state and within or near the corporate limits of the local government or governments under whose authority the corporation was created;

(3) To lease to a user all or any part of any project for the rentals and upon such terms and conditions as the corporation's board may deem advisable and not in conflict with the provisions of this chapter;

(4) To sell by installment payments or otherwise and convey all or any part of any project to a user for a purchase price and upon such terms and conditions as the corporation's board may deem advisable and not in conflict with the provisions of this chapter;

(5) To donate, exchange, convey, sell, or lease land, improvements, or any other interest in real property or furnishings, fixtures, or equipment or personal property to an institution of higher education for a legal purpose of the institution upon such terms and conditions as the board may deem advisable and that are not in conflict with the provisions of this chapter;

(6) To make loans to a user for the purpose of providing temporary or permanent financing or refinancing of all or part of the cost of any project, including the refunding of any outstanding obligations, mortgages, or advances issued, made, or given by any person for the cost of a project, and charge and collect interest on the loans for the loan payments and upon such terms and conditions as its board may deem advisable and not in conflict with the provisions of this chapter;

(7) To contract with private enterprises to carry out industrial development programs or objectives or to carry out or assist with the development or operation of an economic development project or economic development services, as defined under § 14-174-105, or objectives consistent with the purposes and duties of the corporation, upon the terms and conditions the board of the corporation deems advisable and not in conflict with this chapter;

(8) To appoint, employ, and compensate such employees, agents, architects, planners, engineers, accountants, attorneys, and other persons as the activities of the corporation may require;

(9)(A) To invest any of the corporation's funds that the board may determine are not presently needed for its corporate purposes in obligations that are direct or guaranteed obligations of the United States, other securities in which public funds may be invested under the laws of this state, or securities of or other interests in open-end investment companies or investment trusts registered under the Investment Company Act of 1940, 15 U.S.C. § 80a-1 et seq.

(B) However, the portfolio of any investment company or investment trust is limited solely to securities in which public funds may be invested under the laws of this state;

(10) Contract with enterprises to impose such terms and conditions on the receipt of benefits provided by a corporation as the corporation's board may deem advisable and not in conflict with the provisions of this chapter; and

(11)(A) To exercise all powers necessary or appropriate to effect the purposes for which the corporation is organized.

(B) However, the powers are subject to the control of the local government or governments under whose authority the corporation was created.

History. Acts 2005, No. 1372, § 3; 2009, No. 1271, § 2; 2011, No. 282, § 1; 2017, No. 686, § 4.

A.C.R.C. Notes. Acts 2017, No. 686, § 1, provided: "Legislative findings and intent.

"(a) The General Assembly finds that economic development would be enhanced if tax funds authorized under § 14-174-103 were permitted to be used for the full extent of the economic development purposes authorized under Arkansas Constitution, Amendment 62, and Arkansas Constitution, Amendment 97.

"(b) The General Assembly intends for this act to permit economic development tax funds to be used for the purposes authorized under Arkansas Constitution, Amendment 62, and Arkansas Constitution, Amendment 97."

Amendments. The 2017 amendment, in (b)(7), inserted "carry out or", substituted "project or economic development services, as defined under § 14-174-105" for "program", substituted "of the corporation deems" for "may deem", deleted "the provisions of" preceding "this chapter, and made stylistic changes.

14-175-112. Economic development taxes.

(a) All tax proceeds received by a corporation under § 14-174-101 et seq. shall be used for any one (1) or more of the following purposes:

(1) To pay administrative costs incurred by the corporation;

(2) To pay costs incurred in connection with a project;

(3) To pay costs incurred for promotional purposes; or

(4) To pay expenses incurred by the corporation under § 14-175-113 relating to job training.

(b) Tax proceeds received by a corporation under § 14-174-101 et seq. shall not be used for a project for the direct benefit of a specific individual or individuals or nongovernmental enterprise or enterprises unless the primary purpose of the project is to finance an economic development project or provide an economic development service within or near the local government that levies the tax, as provided under § 14-174-105.

History. Acts 2005, No. 1372, § 3; 2017, No. 686, § 5.

A.C.R.C. Notes. Acts 2017, No. 686, § 1, provided: "Legislative findings and intent.

"(a) The General Assembly finds that economic development would be enhanced if tax funds authorized under § 14-174-103 were permitted to be used for the full extent of the economic development purposes authorized under Arkansas Constitution, Amendment 62, and Arkansas Constitution, Amendment 97.

"(b) The General Assembly intends for this act to permit economic development tax funds to be used for the purposes authorized under Arkansas Constitution, Amendment 62, and Arkansas Constitution, Amendment 97."

Amendments. The 2017 amendment, in (b), substituted "Tax" for "No tax", substituted "shall not" for "may", substituted "an economic development project or provide an economic development service" for "facilities for the securing and developing of industry", and added "as provided under § 14-174-105".

14-175-113. Average weekly wage — Job training expenditures.

A corporation may spend tax revenue received under this chapter for job training offered through an enterprise only if the enterprise has committed in writing to:

(1) Create new jobs that pay wages that are at least equal to the prevailing wage for the applicable occupation in the local labor market area; or

(2) Retain jobs that pay wages that are at least equal to the prevailing wage for the applicable occupation in the local labor market area.

History. Acts 2005, No. 1372, § 3; 2009, No. 1271, § 3.

14-175-114. Limitation on liability.

The corporation, the corporation's board of directors, officers, employees and agents, the local government approving the organization of a corporation, members of the governing body of the local government, and employees of the local government are not liable for damages arising from the performance of a governmental function of the corporation or local government.

History. Acts 2005, No. 1372, § 3.

14-175-115. Annual reports.

(a) Each corporation shall make a written report to the governing body that created the corporation concerning its activities for the preceding calendar year.

(b) Each report shall include audited financial statements covering the corporation's operations during the preceding calendar year.

History. Acts 2005, No. 1372, § 3.

14-175-116. Application of Arkansas Nonprofit Corporation Act of 1993.

(a) Each corporation is subject to the provisions of the Arkansas Nonprofit Corporation Act of 1993, § 4-33-101 et seq., to the extent that those provisions are not in conflict with the provisions of this chapter.

(b) If a provision of the Arkansas Nonprofit Corporation Act of 1993, § 4-33-101 et seq., is in conflict with any provision of this chapter, the provisions of this chapter shall control.

History. Acts 2005, No. 1372, § 3.

CHAPTER 176

LOCAL JOB CREATION, JOB EXPANSION, AND ECONOMIC DEVELOPMENT ACT OF 2017

14-176-101. Title.

This chapter shall be known and may be cited as the "Local Job Creation, Job Expansion, and Economic Development Act of 2017".

History. Acts 2017, No. 685, § 1.

14-176-102. Definitions.

As used in this chapter:

(1) "Chief executive" means the:

(A) Mayor, city administrator, or city manager of a municipality; or

(B) County judge of a county;

(2)(A) "County" means a county in the State of Arkansas.

(B) "County" does not mean a public corporation for economic development;

(3) "Economic development project" means the land, buildings, furnishings, equipment, facilities, infrastructure, and improvements that are required or suitable for the development, retention, or expansion of:

(A) Manufacturing, production, and industrial facilities;

(B) Research, technology, and development facilities;

(C) Recycling facilities;

(D) Distribution centers;

(E) Call centers;

(F) Warehouse facilities;

(G) Job training facilities;

(H) Regional or national corporate headquarters facilities;

(I) Sports complexes designed to host local, state, regional, and national competitions, including without limitation baseball, softball, and other sports tournaments; and

(J) Facilities for the retail sale of goods;

(4) "Economic development service" means:

(A) Planning, marketing, and strategic advice and counsel regarding job recruitment, job development, job retention, and job expansion;

(B) Supervision and operation of industrial parks or other such properties; and

(C) Negotiation of contracts for the sale or lease of industrial parks or other such properties;

(5) "Economic impact and cost-benefit analysis" means an economic analysis created with an economic modeling software program or industry-recognized software program that measures the anticipated local or regional economic benefits of an economic development project against the costs of the incentive proposal of the economic development project and prepared by a nationally or regionally recognized independent economic forecasting firm or an Arkansas-based four-year institution of higher education with an active economic research or analysis department;

(6) "Financial forecast" means a written report prepared by an independent certified public accountant of the general revenue and expenses and any other sources of funds to be appropriated by the governing body;

(7) "General revenue" means:

(A) Unobligated current-year budgeted moneys in the general fund of the municipality or county; and

(B) Other unobligated general tax moneys of the municipality or county;

(8) "Governing body" means the:

(A) Quorum court of a county; or

(B) City council or board of directors of a municipality;

(9) "Infrastructure" means:

(A) Land acquisition;

(B) Site preparation;

(C) Road and highway improvements;

(D) Rail spur, railroad, and railport construction;

(E) Water service;

(F) Wastewater treatment;

(G) Employee training, which may include equipment for employee training; and

(H) Environmental mitigation or reclamation;

(10)(A) "Municipality" means a city of the first class, a city of the second class, or an incorporated town.

(B) "Municipality" does not mean a public corporation for economic development;

(11) "Public corporation for economic development" means a corporation created and authorized under § 14-174-101 et seq. and the Public Corporations for Economic Development Act, § 14-175-101 et seq.; and

(12) "Reserves" means:

(A) The unassigned fund balance in the general fund of a municipality or a county at the beginning of the fiscal year; and

(B) The beginning fund balance in a capital improvement fund that is available for appropriation to capital improvement projects at the discretion of the governing body of the municipality or county by ordinance or resolution.

History. Acts 2017, No. 685, § 1; 2019, No. 798, § 1; 2019, No. 1072, § 5.

Amendments. The 2019 amendment by No. 798 added (3)(I) [now (3)(J)].

The 2019 amendment by No. 1072 added (3)(I).

14-176-103. Authorization for obtaining and appropriating money.

(a) A municipality or county may obtain or appropriate money for a corporation, association, institution, political subdivision of the state, the United States Government, or an individual to:

(1) Finance economic development projects; or

(2) Provide economic development services.

(b) Funds appropriated by a municipality or county under the authority of this section shall be deemed to further the public purpose of economic development.

History. Acts 2017, No. 685, § 1.

14-176-104. Economic development projects — Controls, restrictions, prohibitions, and recapture.

(a)(1) Before entering into a contract for an economic development project, the governing body shall review and approve an economic impact and cost-benefit analysis of the economic development project.

(2) The economic impact and cost-benefit analysis under subdivision (a)(1) of this section may be paid for by the governing body.

(3) The requirement for an economic impact and cost-benefit analysis under subdivision (a)(1) of this section does not apply to an economic development project in which the total appropriation does not exceed one hundred thousand dollars ($100,000).

(b) Economic development project contracts shall:

(1) Be approved by the governing body in ordinance or resolution form after following applicable bidding, procurement, and professional services procedures in accordance with state law or local ordinance;

(2) Be memorialized in writing;

(3) Not exceed one (1) year in length unless there is a public finding by the governing body that multiple years are necessary for the success of the economic development project and that multiple years are both lawful and a matter of public benefit;

(4) Not be renewed automatically without a vote of the governing body;

(5) State a proper public purpose, such as the creation of new jobs, job retention, or the expansion of the tax base by construction or improvements to real property;

(6) Articulate specific criteria to measure the progress toward, or achievement of, the proper public purpose; and

(7) Contain a recapture provision, including without limitation:

(A) A specific time frame in which the recipient of the funding shall provide a written financial accounting to the chief executive and governing body of the use of the moneys with documentation generally acceptable to Arkansas Legislative Audit's requirements and a report detailing the recipient's progress toward, or achievement of, the specific criteria in the economic development project contract;

(B) A specific time frame in which the governing body may formally demand by resolution the refunding of the moneys by the recipient upon the governing body's decision that the reporting in subdivision (b)(7)(A) of this section was insufficient and without merit or that the agreed-upon progress or criteria has not been made or achieved in a timely manner as provided for in the economic development project contract; and

(C) If the moneys are not returned when demand is made by the municipality or county, the governing body may authorize a cause of action to recapture the moneys in the circuit court of the county with proper jurisdiction and venue.

(c)(1) The following are exempt from the Freedom of Information Act of 1967, § 25-19-101 et seq., as related to economic development projects:

(A) Files and materials that if disclosed would give advantage to the competitors or bidders; and

(B) Records maintained by the municipality or county related to an economic development project's:

(i) Planning;

(ii) Site location;

(iii) Expansion;

(iv) Operations; or

(v) Product development and marketing.

(2)(A) However, quarterly reports shall be provided to the governing body by parties to the economic development project contract and shall be available to the public.

(B) The reports shall include a statement of the specific items contained in the economic development project contract and articulation of compliance as to each of those items.

History. Acts 2017, No. 685, § 1.

14-176-105. Economic development services — Controls, restrictions, and prohibitions.

(a) Economic development service contracts shall:

(1) Be approved by the governing body in ordinance or resolution form after following applicable bidding, procurement, and professional services procedures in accordance with state law or local ordinance;

(2) Be recorded in writing;

(3) Not exceed one (1) year in length unless there is a public finding by the governing body that multiple years are necessary for the success of the economic development service and that multiple years are both lawful and a matter of public benefit;

(4) Not be renewed automatically without a vote of the governing body;

(5) State a proper public purpose, such as the creation of new jobs, job retention, or the expansion of the tax base by construction or improvements to real property; and

(6) Articulate specific criteria to measure the progress toward, or achievement of, the proper public purpose.

(b)(1) The following are exempt from the Freedom of Information Act of 1967, § 25-19-101 et seq., as related to economic development services:

(A) Files and materials that if disclosed would give advantage to the competitors or bidders; and

(B) Records maintained by an economic development service provider for a municipality or county related to any economic development project.

(2)(A) However, quarterly reports shall be provided to the governing body by parties to the economic development service contract and shall be available to the public.

(B) The reports shall include a statement of the specific items contained in the economic development service contract and articulation of compliance as to each of those items.

History. Acts 2017, No. 685, § 1.

14-176-106. Tax exemption.

Contracts, agreements, and actions taken under this chapter do not affect the tax-exempt status of the state or any municipality or county engaged in work under this chapter.

History. Acts 2017, No. 685, § 1.

14-176-107. Immunity and liability.

(a) Section 21-9-301 et seq. applies to this chapter.

(b) A municipality or county is not liable for any action related to the providing of, or contractual agreement to enter into, an economic development project or economic development service, except as provided by law.

History. Acts 2017, No. 685, § 1.

14-176-108. Limitation on budget — Due diligence.

(a) Except as provided in this section, appropriations for economic development projects by a governing body under this chapter shall not

exceed in a fiscal year five percent (5%) of the total of the municipality's or county's unobligated general revenue and reserves of the previous fiscal year, without regard to the number of economic development projects.

(b)(1) If a governing body chooses to participate in an economic development project that exceeds the five percent (5%) level under subsection (a) of this section in a fiscal year, the governing body shall secure a financial forecast and then determine whether the municipality or county will participate in the economic development project or projects.

(2) A financial forecast under subdivision (b)(1) of this section shall be undertaken each time the five percent (5%) level under subsection (a) of this section is exceeded.

(c) The use of the whole or partial amount of revenue specifically dedicated by law, ordinance, or resolution and public vote for economic development for the purposes in this chapter are excluded from the restrictions and limitations of this section.

History. Acts 2017, No. 685, § 1.

14-176-109. Singular contract methodology.

A municipality or county may engage the services of a singular entity to administer economic development projects and economic development services under this chapter.

History. Acts 2017, No. 685, § 1.

14-176-110. Bonds.

This chapter does not prohibit or restrict the use of funding economic development projects through the proceeds of:

(1) Revenue bonds issued in accordance with Arkansas Constitution, Amendment 65; or

(2) Capital improvement or economic development bonds issued in accordance with Arkansas Constitution, Amendment 62.

History. Acts 2017, No. 685, § 1.

14-176-111. Federal and state grants.

The use of federal and state grants is excluded from the restrictions and limitations of this chapter.

History. Acts 2017, No. 685, § 1.

14-176-112. Interlocal agreements.

The use of interlocal agreements under the Interlocal Cooperation Act, § 25-20-101 et seq., is excluded from the restrictions and limitations of this chapter.

History. Acts 2017, No. 685, § 1.

14-176-113. Current economic development projects.

Economic development projects that are under way on January 1, 2017, are exempt from the restrictions and limitations of this chapter.

History. Acts 2017, No. 685, § 1.